

HB 41 [SCS HB 41]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Removes portions of the school funding formula that are no longer relevant due to the passage of time

AN ACT to repeal sections 163.021 and 165.011, RSMo, section 163.011 as enacted by house bill no. 1689, ninety-seventh general assembly, second regular session, and section 163.031 as enacted by house bill no. 1689, ninety-seventh general assembly, second regular session, and to enact in lieu thereof four new sections relating to state aid for schools.

SECTION

- A. Enacting clause.
- 163.011. Definitions — method of calculating state aid.
- 163.021. Eligibility for state aid, requirements — evaluation of correlation of rates and assessed valuation, report, calculation — further requirements — exception — operating levy less than performance levy, requirements.
- 163.031. State aid — amount, how determined — categorical add-on revenue, determination of amount — waiver of rules — deposits to teachers' fund and incidental fund, when — state adequacy target adjustment, when.
- 165.011. Tuition — accounting of school moneys, funds — uses — transfers to and from incidental fund, when — transfers to debt service fund, when — one-time transfer for Carthage School district — deduction for unlawful transfers — transfer of unrestricted funds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 163.021 and 165.011, RSMo, section 163.011 as enacted by house bill no. 1689, ninety-seventh general assembly, second regular session, and section 163.031 as enacted by house bill no. 1689, ninety-seventh general assembly, second regular session, are repealed and four new sections enacted in lieu thereof, to be known as sections 163.011, 163.021, 163.031, and 165.011, to read as follows:

163.011. DEFINITIONS — METHOD OF CALCULATING STATE AID. — As used in this chapter unless the context requires otherwise:

(1) "Adjusted operating levy", the sum of tax rates for the current year for teachers' and incidental funds for a school district as reported to the proper officer of each county pursuant to section 164.011;

(2) "Average daily attendance", the quotient or the sum of the quotients obtained by dividing the total number of hours attended in a term by resident pupils between the ages of five and twenty-one by the actual number of hours school was in session in that term. To the average daily attendance of the following school term shall be added the full-time equivalent average daily attendance of summer school students. "Full-time equivalent average daily attendance of summer school students" shall be computed by dividing the total number of hours, except for physical education hours that do not count as credit toward graduation for students in grades nine, ten, eleven, and twelve, attended by all summer school pupils by the number of hours required in section 160.011 in the school term. For purposes of determining average daily attendance under this subdivision, the term "resident pupil" shall include all children between the ages of five and twenty-one who are residents of the school district and who are attending kindergarten through grade twelve in such district. If a child is attending school in a district other than the district of residence and the child's parent is teaching in the school district or is a regular employee of the school district which the child is attending, then such child shall be considered a resident pupil of the school district which the child is attending for such period of time when the district of residence is not otherwise liable for tuition. Average daily attendance for students

below the age of five years for which a school district may receive state aid based on such attendance shall be computed as regular school term attendance unless otherwise provided by law;

(3) "Current operating expenditures":

(a) For the fiscal year 2007 calculation, "current operating expenditures" shall be calculated using data from fiscal year 2004 and shall be calculated as all expenditures for instruction and support services except capital outlay and debt service expenditures minus the revenue from federal categorical sources; food service; student activities; categorical payments for transportation costs pursuant to section 163.161; state reimbursements for early childhood special education; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515; the vocational education entitlement for the district, as provided for in section 167.332; and payments from other districts;

(b) In every fiscal year subsequent to fiscal year 2007, current operating expenditures shall be the amount in paragraph (a) of this subdivision plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005, not to exceed five percent, per recalculation, of the state revenue received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target. Beginning on July 1, 2010, current operating expenditures shall be the amount in paragraph (a) of this subdivision plus any increases in state funding pursuant to sections 163.031 and 163.043 subsequent to fiscal year 2005 received by a district in the 2004-05 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments for any district from the first preceding calculation of the state adequacy target;

(4) "District's tax rate ceiling", the highest tax rate ceiling in effect subsequent to the 1980 tax year or any subsequent year. Such tax rate ceiling shall not contain any tax levy for debt service;

(5) "Dollar-value modifier", an index of the relative purchasing power of a dollar, calculated as one plus fifteen percent of the difference of the regional wage ratio minus one, provided that the dollar value modifier shall not be applied at a rate less than 1.0:

(a) "County wage per job", the total county wage and salary disbursements divided by the total county wage and salary employment for each county and the City of St. Louis as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year;

(b) "Regional wage per job":

a. The total Missouri wage and salary disbursements of the metropolitan area as defined by the Office of Management and Budget divided by the total Missouri metropolitan wage and salary employment for the metropolitan area for the county signified in the school district number or the City of St. Louis, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year and recalculated upon every decennial census to incorporate counties that are newly added to the description of metropolitan areas; or if no such metropolitan area is established, then:

b. The total Missouri wage and salary disbursements of the micropolitan area as defined by the Office of Management and Budget divided by the total Missouri micropolitan wage and salary employment for the micropolitan area for the county signified in the school district number, as reported by the Bureau of Economic Analysis of the United States Department of Commerce for the fourth year preceding the payment year, if a micropolitan area for such county has been established and recalculated upon every decennial census to incorporate counties that are newly added to the description of micropolitan areas; or

c. If a county is not part of a metropolitan or micropolitan area as established by the Office of Management and Budget, then the county wage per job, as defined in paragraph (a) of this subdivision, shall be used for the school district, as signified by the school district number;

(c) "Regional wage ratio", the ratio of the regional wage per job divided by the state median wage per job;

(d) "State median wage per job", the fifty-eighth highest county wage per job;

(6) "Free and reduced lunch pupil count", for school districts not eligible for and those that do not choose the USDA Community Eligibility Option, the number of pupils eligible for free and reduced lunch on the last Wednesday in January for the preceding school year who were enrolled as students of the district, as approved by the department in accordance with applicable federal regulations. For eligible school districts that choose the USDA Community Eligibility Option, the free and reduced lunch pupil count shall be the percentage of free and reduced lunch students calculated as eligible on the last Wednesday in January of the most recent school year that included household applications to determine free and reduced lunch count multiplied by the district's average daily attendance figure;

(7) "Free and reduced lunch threshold" shall be calculated by dividing the total free and reduced lunch pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(8) "Limited English proficiency pupil count", the number in the preceding school year of pupils aged three through twenty-one enrolled or preparing to enroll in an elementary school or secondary school who were not born in the United States or whose native language is a language other than English or are Native American or Alaskan native, or a native resident of the outlying areas, and come from an environment where a language other than English has had a significant impact on such individuals' level of English language proficiency, or are migratory, whose native language is a language other than English, and who come from an environment where a language other than English is dominant; and have difficulties in speaking, reading, writing, or understanding the English language sufficient to deny such individuals the ability to meet the state's proficient level of achievement on state assessments described in Public Law 107-10, the ability to achieve successfully in classrooms where the language of instruction is English, or the opportunity to participate fully in society;

(9) "Limited English proficiency threshold" shall be calculated by dividing the total limited English proficiency pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(10) "Local effort":

(a) For the fiscal year 2007 calculation, "local effort" shall be computed as the equalized assessed valuation of the property of a school district in calendar year 2004 divided by one hundred and multiplied by the performance levy less the percentage retained by the county assessor and collector plus one hundred percent of the amount received in fiscal year 2005 for school purposes from intangible taxes, fines, escheats, payments in lieu of taxes and receipts from state-assessed railroad and utility tax, one hundred percent of the amount received for school purposes pursuant to the merchants' and manufacturers' taxes under sections 150.010 to 150.370, one hundred percent of the amounts received for school purposes from federal properties under sections 12.070 and 12.080 except when such amounts are used in the calculation of federal impact aid pursuant to P.L. 81-874, fifty percent of Proposition C revenues received for school purposes from the school district trust fund under section 163.087, and one hundred percent of any local earnings or income taxes received by the district for school purposes. Under this paragraph, for a special district established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, a tax levy of zero shall be utilized in lieu of the performance levy for the special school district;

(b) In every year subsequent to fiscal year 2007, "local effort" shall be the amount calculated under paragraph (a) of this subdivision plus any increase in the amount received for school purposes from fines. If a district's assessed valuation has decreased subsequent to the calculation outlined in paragraph (a) of this subdivision, the district's local effort shall be calculated using the district's current assessed valuation in lieu of the assessed valuation utilized in the calculation outlined in paragraph (a) of this subdivision. When a change in a school district's boundary lines occurs because of a boundary line change, annexation, attachment, consolidation, reorganization, or dissolution under section 162.071, 162.081, sections 162.171 to 162.201, section 162.221, 162.223, 162.431, 162.441, or 162.451, or in the event that a school district assumes any territory from a district that ceases to exist for any reason, the department of elementary and secondary education shall make a proper adjustment to each affected district's local effort, so that each district's local effort figure conforms to the new boundary lines of the district. The department shall compute the local effort figure by applying the calendar year 2004 assessed valuation data to the new land areas resulting from the boundary line change, annexation, attachment, consolidation, reorganization, or dissolution and otherwise follow the procedures described in this subdivision;

(11) "Membership" shall be the average of:

(a) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in September of the previous year and who were in attendance one day or more during the preceding ten school days; and

(b) The number of resident full-time students and the full-time equivalent number of part-time students who were enrolled in the public schools of the district on the last Wednesday in January of the previous year and who were in attendance one day or more during the preceding ten school days, plus the full-time equivalent number of summer school pupils. "Full-time equivalent number of part-time students" is determined by dividing the total number of hours for which all part-time students are enrolled by the number of hours in the school term. "Full-time equivalent number of summer school pupils" is determined by dividing the total number of hours for which all summer school pupils were enrolled by the number of hours required pursuant to section 160.011 in the school term. Only students eligible to be counted for average daily attendance shall be counted for membership;

(12) "Operating levy for school purposes", the sum of tax rates levied for teachers' and incidental funds plus the operating levy or sales tax equivalent pursuant to section 162.1100 of any transitional school district containing the school district, in the payment year, not including any equalized operating levy for school purposes levied by a special school district in which the district is located;

(13) "Performance district", any district that has met performance standards and indicators as established by the department of elementary and secondary education for purposes of accreditation under section 161.092 and as reported on the final annual performance report for that district each year; for calculations to be utilized for payments in fiscal years subsequent to fiscal year 2018, the number of performance districts shall not exceed twenty-five percent of all public school districts;

(14) "Performance levy", three dollars and forty-three cents;

(15) "School purposes" pertains to teachers' and incidental funds;

(16) "Special education pupil count", the number of public school students with a current individualized education program or services plan and receiving services from the resident district as of December first of the preceding school year, except for special education services provided through a school district established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, in which case the sum of the students in each district within the county exceeding the special education threshold of each respective district within the county shall be counted within the special district and not in the district of residence for purposes of distributing the state aid derived from the special education pupil count;

(17) "Special education threshold" shall be calculated by dividing the total special education pupil count of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, by the total average daily attendance of all included performance districts;

(18) "State adequacy target", the sum of the current operating expenditures of every performance district that falls entirely above the bottom five percent and entirely below the top five percent of average daily attendance, when such districts are rank-ordered based on their current operating expenditures per average daily attendance, divided by the total average daily attendance of all included performance districts. The department of elementary and secondary education shall first calculate the state adequacy target for fiscal year 2007 and recalculate the state adequacy target every two years using the most current available data. The recalculation shall never result in a decrease from the previous state adequacy target amount. Should a recalculation result in an increase in the state adequacy target amount, fifty percent of that increase shall be included in the state adequacy target amount in the year of recalculation, and fifty percent of that increase shall be included in the state adequacy target amount in the subsequent year. The state adequacy target may be adjusted to accommodate available appropriations as provided in subsection [8] 7 of section 163.031;

(19) "Teacher", any teacher, teacher-secretary, substitute teacher, supervisor, principal, supervising principal, superintendent or assistant superintendent, school nurse, social worker, counselor or librarian who shall, regularly, teach or be employed for no higher than grade twelve more than one-half time in the public schools and who is certified under the laws governing the certification of teachers in Missouri;

(20) "Weighted average daily attendance", the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the number of special education pupil count that exceeds the special education threshold, plus the product of six-tenths multiplied by the number of limited English proficiency pupil count that exceeds the limited English proficiency threshold. For special districts established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, weighted average daily attendance shall be the average daily attendance plus the product of twenty-five hundredths multiplied by the free and reduced lunch pupil count that exceeds the free and reduced lunch threshold, plus the product of seventy-five hundredths multiplied by the sum of the special education pupil count that exceeds the threshold for each county district, plus the product of six-tenths multiplied by the limited English proficiency pupil count that exceeds the limited English proficiency threshold. None of the districts comprising a special district established under sections 162.815 to 162.940 in a county with a charter form of government and with more than one million inhabitants, shall use any special education pupil count in calculating their weighted average daily attendance.

163.021. ELIGIBILITY FOR STATE AID, REQUIREMENTS — EVALUATION OF CORRELATION OF RATES AND ASSESSED VALUATION, REPORT, CALCULATION — FURTHER REQUIREMENTS — EXCEPTION — OPERATING LEVY LESS THAN PERFORMANCE LEVY, REQUIREMENTS. — 1. A school district shall receive state aid for its education program only if it:

(1) Provides for a minimum of one hundred seventy-four days and one thousand forty-four hours of actual pupil attendance in a term scheduled by the board pursuant to section 160.041 for each pupil or group of pupils, except that the board shall provide a minimum of one hundred seventy-four days and five hundred twenty-two hours of actual pupil attendance in a term for kindergarten pupils. If any school is dismissed because of inclement weather after school has been in session for three hours, that day shall count as a school day including afternoon session kindergarten students. When the aggregate hours lost in a term due to inclement weather

decreases the total hours of the school term below the required minimum number of hours by more than twelve hours for all-day students or six hours for one-half-day kindergarten students, all such hours below the minimum must be made up in one-half day or full day additions to the term, except as provided in section 171.033;

(2) Maintains adequate and accurate records of attendance, personnel and finances, as required by the state board of education, which shall include the preparation of a financial statement which shall be submitted to the state board of education the same as required by the provisions of section 165.111 for districts;

(3) Levies an operating levy for school purposes of not less than one dollar and twenty-five cents after all adjustments and reductions on each one hundred dollars assessed valuation of the district;

(4) Computes average daily attendance as defined in subdivision (2) of section 163.011 as modified by section 171.031. Whenever there has existed within the district an infectious disease, contagion, epidemic, plague or similar condition whereby the school attendance is substantially reduced for an extended period in any school year, the apportionment of school funds and all other distribution of school moneys shall be made on the basis of the school year next preceding the year in which such condition existed.

2. For the 2006-07 school year and thereafter, no school district shall receive more state aid, as calculated under subsections 1 and 2 of section 163.031, for its education program, exclusive of categorical add-ons, than it received per weighted average daily attendance for the school year 2005-06 from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts, unless it has an operating levy for school purposes, as determined pursuant to section 163.011, of not less than two dollars and seventy-five cents after all adjustments and reductions. Any district which is required, pursuant to article X, section 22 of the Missouri Constitution, to reduce its operating levy below the minimum tax rate otherwise required under this subsection shall not be construed to be in violation of this subsection for making such tax rate reduction. Pursuant to section 10(c) of article X of the state constitution, a school district may levy the operating levy for school purposes required by this subsection less all adjustments required pursuant to article X, section 22 of the Missouri Constitution if such rate does not exceed the highest tax rate in effect subsequent to the 1980 tax year. Nothing in this section shall be construed to mean that a school district is guaranteed to receive an amount not less than the amount the school district received per eligible pupil for the school year 1990-91. The provisions of this subsection shall not apply to any school district located in a county of the second classification which has a nuclear power plant located in such district or to any school district located in a county of the third classification which has an electric power generation unit with a rated generating capacity of more than one hundred fifty megawatts which is owned or operated or both by a rural electric cooperative except that such school districts may levy for current school purposes and capital projects an operating levy not to exceed two dollars and seventy-five cents less all adjustments required pursuant to article X, section 22 of the Missouri Constitution.

3. No school district shall receive more state aid, as calculated in section 163.031, for its education program, exclusive of categorical add-ons, than it received per eligible pupil for the school year 1993-1994, if the state board of education determines that the district was not in compliance in the preceding school year with the requirements of section 163.172, until such time as the board determines that the district is again in compliance with the requirements of section 163.172.

4. No school district shall receive state aid, pursuant to section 163.031, if such district was not in compliance, during the preceding school year, with the requirement, established pursuant to section 160.530 to allocate revenue to the professional development committee of the district.

5. No school district shall receive more state aid, as calculated in subsections 1 and 2 of section 163.031, for its education program, exclusive of categorical add-ons, than it received per weighted average daily attendance for the school year 2005-06 from the foundation formula, line

14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts, if the district did not comply in the preceding school year with the requirements of subsection [6] 5 of section 163.031.

6. Any school district that levies an operating levy for school purposes that is less than the performance levy, as such term is defined in section 163.011, shall provide written notice to the department of elementary and secondary education asserting that the district is providing an adequate education to the students of such district. If a school district asserts that it is not providing an adequate education to its students, such inadequacy shall be deemed to be a result of insufficient local effort. The provisions of this subsection shall not apply to any special district established under sections 162.815 to 162.940.

163.031. STATE AID — AMOUNT, HOW DETERMINED — CATEGORICAL ADD-ON REVENUE, DETERMINATION OF AMOUNT — WAIVER OF RULES — DEPOSITS TO TEACHERS' FUND AND INCIDENTAL FUND, WHEN — STATE ADEQUACY TARGET ADJUSTMENT, WHEN. —

1. The department of elementary and secondary education shall calculate and distribute to each school district qualified to receive state aid under section 163.021 an amount determined by multiplying the district's weighted average daily attendance by the state adequacy target, multiplying this product by the dollar value modifier for the district, and subtracting from this product the district's local effort and[, in years not governed under subsection 4 of this section,] subtracting payments from the classroom trust fund under section 163.043.

2. Other provisions of law to the contrary notwithstanding:

(1) For districts with an average daily attendance of more than three hundred fifty in the school year preceding the payment year:

(a) [For the 2006-07 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of one-third multiplied by the remainder of the dollar value modifier minus one, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(b) For the 2007-08 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the dollar value modifier minus one, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

(c) [For the 2008-09 school year, the state revenue per weighted average daily attendance received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the state revenue received by a district in the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier, and dividing this product by the weighted average daily attendance computed for the 2005-06 school year;

[(d)] (b) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph [(c)] (a) of this subdivision, multiplied by the weighted average daily attendance pursuant to section 163.036, less any increase in revenue received from the classroom trust fund under section 163.043;

(2) For districts with an average daily attendance of three hundred fifty or less in the school year preceding the payment year:

(a) [For the 2006-07 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of one-third multiplied by the remainder of the dollar value modifier minus one;

(b) For the 2007-08 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the sum of one plus the product of two-thirds multiplied by the remainder of the dollar value modifier minus one;

(c)] For the 2008-09 school year, the state revenue received by a district from the state aid calculation under subsections 1 and 4 of this section, as applicable, and the classroom trust fund under section 163.043 shall not be less than the greater of state revenue received by a district in the 2004-05 or 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payment amounts multiplied by the dollar value modifier;

[(d)] (b) For each year subsequent to the 2008-09 school year, the amount shall be no less than that computed in paragraph [(c)] (a) of this subdivision;

(3) The department of elementary and secondary education shall make an addition in the payment amount specified in subsection 1 of this section to assure compliance with the provisions contained in this subsection.

3. School districts that meet the requirements of section 163.021 shall receive categorical add-on revenue as provided in this subsection. The categorical add-on for the district shall be the sum of: seventy-five percent of the district allowable transportation costs under section 163.161; the career ladder entitlement for the district, as provided for in sections 168.500 to 168.515; the vocational education entitlement for the district, as provided for in section 167.332; and the district educational and screening program entitlements as provided for in sections 178.691 to 178.699. The categorical add-on revenue amounts may be adjusted to accommodate available appropriations.

4. [In the 2006-07 school year and each school year thereafter for five years, those districts entitled to receive state aid under the provisions of subsection 1 of this section shall receive state aid in an amount as provided in this subsection.

(1) For the 2006-07 school year, the amount shall be fifteen percent of the amount of state aid calculated for the district for the 2006-07 school year under the provisions of subsection 1 of this section, plus eighty-five percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(2) For the 2007-08 school year, the amount shall be thirty percent of the amount of state aid calculated for the district for the 2007-08 school year under the provisions of subsection 1 of this section, plus seventy percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(3) For the 2008-09 school year, the amount of state aid shall be forty-four percent of the amount of state aid calculated for the district for the 2008-09 school year under the provisions of subsection 1 of this section plus fifty-six percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial

reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(4) For the 2009-10 school year, the amount of state aid shall be fifty-eight percent of the amount of state aid calculated for the district for the 2009-10 school year under the provisions of subsection 1 of this section plus forty-two percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(5) For the 2010-11 school year, the amount of state aid shall be seventy-two percent of the amount of state aid calculated for the district for the 2010-11 school year under the provisions of subsection 1 of this section plus twenty-eight percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(6) For the 2011-12 school year, the amount of state aid shall be eighty-six percent of the amount of state aid calculated for the district for the 2011-12 school year under the provisions of subsection 1 of this section plus fourteen percent of the total amount of state revenue received by the district for the 2005-06 school year from the foundation formula, line 14, gifted, remedial reading, exceptional pupil aid, fair share, and free textbook payments less any amounts received under section 163.043.

(7) (a) a. For the 2006-07 school year, if a school district experiences a decrease in summer school average daily attendance of more than twenty percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of twenty percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

b. For the 2007-08 school year, if a school district experiences a decrease in summer school average daily attendance of more than thirty percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of thirty percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

c. For the 2008-09 school year, if a school district experiences a decrease in summer school average daily attendance of more than thirty-five percent from the district's 2005-06 summer school average daily attendance, an amount equal to the product of the percent reduction that is in excess of thirty-five percent of the district's summer school average daily attendance multiplied by the funds generated by the district's summer school program in the 2005-06 school year shall be subtracted from the district's payment amount.

d. Notwithstanding the provisions of this paragraph, no such reduction shall be made in the case of a district that is receiving a payment under section 163.044 or any district whose regular school term average daily attendance for the preceding year was three hundred fifty or less.

e. This paragraph shall not be construed to permit any reduction applied under this paragraph to result in any district receiving a current-year payment that is less than the amount calculated for such district under subsection 2 of this section.

(b) If a school district experiences a decrease in its gifted program enrollment of more than twenty percent from its 2005-06 gifted program enrollment in any year governed by this subsection, an amount equal to the product of the percent reduction in the district's gifted program enrollment multiplied by the funds generated by the district's gifted program in the 2005-06 school year shall be subtracted from the district's current year payment amount.

5.] For any school district meeting the eligibility criteria for state aid as established in section 163.021, but which is considered an option district under section 163.042 and therefore receives no state aid, the commissioner of education shall present a plan to the superintendent

of the school district for the waiver of rules and the duration of said waivers, in order to promote flexibility in the operations of the district and to enhance and encourage efficiency in the delivery of instructional services as provided in section 163.042.

[6.] **5.** (1) No less than seventy-five percent of the state revenue received under the provisions of subsections 1[.], **and** 2[, and 4] of this section shall be placed in the teachers' fund, and the remaining percent of such moneys shall be placed in the incidental fund. No less than seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 shall be placed in the teachers' fund. One hundred percent of revenue received under the provisions of section 163.161 shall be placed in the incidental fund. One hundred percent of revenue received under the provisions of sections 168.500 to 168.515 shall be placed in the teachers' fund.

(2) A school district shall spend for certificated compensation and tuition expenditures each year:

(a) An amount equal to at least seventy-five percent of the state revenue received under the provisions of subsections 1[.], **and** 2[, and 4] of this section;

(b) An amount equal to at least seventy-five percent of one-half of the funds received from the school district trust fund distributed under section 163.087 during the preceding school year; and

(c) Beginning in fiscal year 2008, as much as was spent per the second preceding year's weighted average daily attendance for certificated compensation and tuition expenditures the previous year from revenue produced by local and county tax sources in the teachers' fund, plus the amount of the incidental fund to teachers' fund transfer calculated to be local and county tax sources by dividing local and county tax sources in the incidental fund by total revenue in the incidental fund.

In the event a district fails to comply with this provision, the amount by which the district fails to spend funds as provided herein shall be deducted from the district's state revenue received under the provisions of subsections 1[.], **and** 2[, and 4] of this section for the following year, provided that the state board of education may exempt a school district from this provision if the state board of education determines that circumstances warrant such exemption.

[7.] **6.** If a school district's annual audit discloses that students were inappropriately identified as eligible for free and reduced lunch, special education, or limited English proficiency and the district does not resolve the audit finding, the department of elementary and secondary education shall require that the amount of aid paid pursuant to the weighting for free and reduced lunch, special education, or limited English proficiency in the weighted average daily attendance on the inappropriately identified pupils be repaid by the district in the next school year and shall additionally impose a penalty of one hundred percent of such aid paid on such pupils, which penalty shall also be paid within the next school year. Such amounts may be repaid by the district through the withholding of the amount of state aid.

[8.] **7.** Notwithstanding any provision of law to the contrary, in any fiscal year during which the total formula appropriation is insufficient to fully fund the entitlement calculation of this section, the department of elementary and secondary education shall adjust the state adequacy target in order to accommodate the appropriation level for the given fiscal year. In no manner shall any payment modification be rendered for any district qualified to receive payments under subsection 2 of this section based on insufficient appropriations.

165.011. TUITION — ACCOUNTING OF SCHOOL MONEYS, FUNDS — USES — TRANSFERS TO AND FROM INCIDENTAL FUND, WHEN — TRANSFERS TO DEBT SERVICE FUND, WHEN — ONE-TIME TRANSFER FOR CARTHAGE SCHOOL DISTRICT — DEDUCTION FOR UNLAWFUL TRANSFERS — TRANSFER OF UNRESTRICTED FUNDS. — 1. The following funds are created for the accounting of all school moneys: teachers' fund, incidental fund, capital projects fund and debt service fund. The treasurer of the school district shall open an account for each fund

specified in this section, and all moneys received from the county school fund and all moneys derived from taxation for teachers' wages shall be placed to the credit of the teachers' fund. All tuition fees, state moneys received under section 163.031, and all other moneys received from the state except as herein provided shall be placed to the credit of the teachers' and incidental funds at the discretion of the district board of education, except as provided in subsection [6] 5 of section 163.031. Money received from other districts for transportation and money derived from taxation for incidental expenses shall be credited to the incidental fund. All money derived from taxation or received from any other source for the erection of buildings or additions thereto and the remodeling or reconstruction of buildings and the furnishing thereof, for the payment of lease-purchase obligations, for the purchase of real estate, or from sale of real estate, schoolhouses or other buildings of any kind, or school furniture, from insurance, from sale of bonds other than refunding bonds shall be placed to the credit of the capital projects fund. All moneys derived from the sale or lease of sites, buildings, facilities, furnishings, and equipment by a school district as authorized under section 177.088 shall be credited to the capital projects fund. Money derived from taxation for the retirement of bonds and the payment of interest thereon shall be credited to the debt service fund, which shall be maintained as a separate bank account. Receipts from delinquent taxes shall be allocated to the several funds on the same basis as receipts from current taxes, except that where the previous years' obligations of the district would be affected by such distribution, the delinquent taxes shall be distributed according to the tax levies made for the years in which the obligations were incurred. All refunds received shall be placed to the credit of the fund from which the original expenditures were made. Money donated to the school districts shall be placed to the credit of the fund where it can be expended to meet the purpose for which it was donated and accepted. Money received from any other source whatsoever shall be placed to the credit of the fund or funds designated by the board.

2. The school board may transfer any portion of the unrestricted balance remaining in the incidental fund to the teachers' fund. Any district that uses an incidental fund transfer to pay for more than twenty-five percent of the annual certificated compensation obligation of the district and has an incidental fund balance on June thirtieth in any year in excess of fifty percent of the combined incidental teachers' fund expenditures for the fiscal year just ended shall be required to transfer the excess from the incidental fund to the teachers' fund. If a balance remains in the debt service fund, after the total outstanding indebtedness for which the fund was levied is paid, the board may transfer the unexpended balance to the capital projects fund. If a balance remains in the bond proceeds after completion of the project for which the bonds were issued, the balance shall be transferred from the incidental or capital projects fund to the debt service fund. After making all placements of interest otherwise provided by law, a school district may transfer from the capital projects fund to the incidental fund the interest earned from undesignated balances in the capital projects fund. A school district may borrow from one of the following funds: teachers' fund, incidental fund, or capital projects fund, as necessary to meet obligations in another of those funds; provided that the full amount is repaid to the lending fund within the same fiscal year.

3. Tuition shall be paid from either the teachers' or incidental funds. Employee benefits for certificated staff shall be paid from the teachers' fund.

4. Other provisions of law to the contrary notwithstanding, the school board of a school district that meets the provisions of subsection [6] 5 of section 163.031 may transfer from the incidental fund to the capital projects fund the sum of:

(1) The amount to be expended for transportation equipment that is considered an allowable cost under state board of education rules for transportation reimbursements during the current year; plus

(2) Any amount necessary to satisfy obligations of the capital projects fund for state-approved area vocational-technical schools; plus

(3) Current year obligations for lease-purchase obligations entered into prior to January 1, 1997; plus

(4) The amount necessary to repay costs of one or more guaranteed energy savings performance contracts to renovate buildings in the school district, provided that the contract is only for energy conservation measures as defined in section 640.651 and provided that the contract specifies that no payment or total of payments shall be required from the school district until at least an equal total amount of energy and energy-related operating savings and payments from the vendor pursuant to the contract have been realized by the school district; plus

(5) An amount not to exceed the greater of:

(a) One hundred sixty-two thousand three hundred twenty-six dollars; or

(b) Seven percent of the state adequacy target multiplied by the district's weighted average daily attendance, provided that transfer amounts in excess of current year obligations of the capital projects fund authorized under this subdivision may be transferred only by a resolution of the school board approved by a majority of the board members in office when the resolution is voted on and identifying the specific capital projects to be funded directly by the district by the transferred funds and an estimated expenditure date.

5. Beginning in the 2006-07 school year, a district meeting the provisions of subsection [6] 5 of section 163.031 and not making the transfer under subdivision (5) of subsection 4 of this section, nor making payments or expenditures related to obligations made under section 177.088 may transfer from the incidental fund to the debt service fund or the capital projects fund the greater of:

(1) The state aid received in the 2005-06 school year as a result of no more than eighteen cents of the sum of the debt service and capital projects levy used in the foundation formula and placed in the respective debt service or capital projects fund, whichever fund had the designated tax levy; or

(2) Five percent of the state adequacy target multiplied by the district's weighted average daily attendance.

6. A district with territory in a county of the first classification with more than one hundred fifteen thousand but fewer than one hundred fifty thousand inhabitants that maintains the district office in a home rule city with more than thirteen thousand five hundred but fewer than fifteen thousand inhabitants shall be permitted a one-time transfer during school year 2014-15 of unrestricted funds from the incidental fund to the capital projects fund in an amount that leaves the incidental fund at a balance no lower than twenty percent for the purpose of constructing capital projects to improve student safety.

7. Beginning in the 2006-07 school year, the department of elementary and secondary education shall deduct from a school district's state aid calculated pursuant to section 163.031 an amount equal to the amount of any transfer of funds from the incidental fund to the capital projects fund or debt service fund performed during the previous year in violation of this section; except that the state aid shall be deducted over no more than five school years following the school year of an unlawful transfer based on a plan from the district approved by the commissioner of elementary and secondary education.

8. A school district may transfer unrestricted funds from the capital projects fund to the incidental fund in any year to avoid becoming financially stressed as defined in subsection 1 of section 161.520. If on June thirtieth of any fiscal year the sum of unrestricted balances in a school district's incidental fund and teacher's fund is less than twenty percent of the sum of the school district's expenditures from those funds for the fiscal year ending on that June thirtieth, the school district may, during the next succeeding fiscal year, transfer to its incidental fund an amount up to and including the amount of the unrestricted balance in its capital projects fund on that June thirtieth. For purposes of this subsection, in addition to any other restrictions that may apply to funds in the school district's capital projects fund, any funds that are derived from the proceeds of one or more general obligation bond issues shall be considered restricted funds and shall not be transferred to the school district's incidental fund.

HB 50 [SCS HCS HB 50]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the requirements for disclosure of information regarding insurance holding companies

AN ACT to repeal sections 382.010, 382.040, 382.050, 382.060, 382.080, 382.095, 382.110, 382.160, 382.170, 382.180, 382.190, 382.195, 382.220, and 382.230, RSMo, and to enact in lieu thereof twenty-nine new sections relating to the business of insurance, with a penalty provision.

SECTION

- A. Enacting clause.
- 382.010. Definitions.
- 382.040. Securities of domestic insurers, regulation of trading in — divestment of a controlling interest, procedure.
- 382.050. Statement, contents.
- 382.060. Approval of merger or acquisition of control, when — hearing, notice — consolidated hearing, when — change of control, restoration of capital, when.
- 382.080. Prohibited acts.
- 382.095. Acquisitions where change of control of insurer, subject to order, when — contents, requirements — violations, penalties.
- 382.110. Registration, form, contents, exempted matter.
- 382.160. Exemption from registration and reports, how and when.
- 382.170. Disclaimer of affiliation, effect of.
- 382.175. Enterprise risk report, contents, filing of, due date.
- 382.180. Failure to file registration statement, summary, or enterprise risk report a violation.
- 382.190. Transactions with affiliates, how conducted.
- 382.195. Prohibited transactions, exceptions.
- 382.220. Director, powers of — insurer liable for examination costs.
- 382.225. Supervisory college, powers of director — insurer liable for expenses of director's participation in supervisory college.
- 382.230. Certain information confidential, exception — private civil action, director not required to testify — permissible acts of the director.
- 382.277. Violation, basis for disapproving dividends or distributions and placing insurer under order of suspension.
- 382.278. Inapplicability of certain provisions to certain holding companies.
- 382.500. Applicability — findings of general assembly.
- 382.505. Definitions.
- 382.510. Risk management framework to be maintained.
- 382.515. ORSA to be conducted, when.
- 382.520. ORSA summary report required, when, contents.
- 382.525. Exemptions — waiver — ORSA required, when.
- 382.530. ORSA summary report to be prepared consistent with ORSA guidance manual — review, procedures.
- 382.535. Information and ORSA summary report is proprietary and contains trade secrets, confidentiality — permissible acts by director — no waiver of confidentiality or privilege.
- 382.540. Violation, failure to file ORSA summary report.
- 382.545. Severability clause.
- 382.550. Effective date — first filing date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 382.010, 382.040, 382.050, 382.060, 382.080, 382.095, 382.110, 382.160, 382.170, 382.180, 382.190, 382.195, 382.220, and 382.230, RSMo, are repealed and twenty-nine new sections enacted in lieu thereof, to be known as sections 382.010, 382.040, 382.050, 382.060, 382.080, 382.095, 382.110, 382.160, 382.170, 382.175, 382.180, 382.190, 382.195, 382.220, 382.225, 382.230, 382.277, 382.278, 382.500, 382.505, 382.510, 382.515, 382.520, 382.525, 382.530, 382.535, 382.540, 382.545, and 382.550, to read as follows:

382.010. DEFINITIONS. — As used in sections 382.010 to 382.300, the following words and terms have the meanings indicated unless the context clearly requires otherwise:

(1) An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified;

(2) [The term] "Control", [including the terms] "controlling", "controlled by" [and], or "under common control with", [means] the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by section 382.170 that control does not exist in fact. The director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;

(3) [The term] "Director" [means], the director of the department of insurance, financial institutions and professional registration, his **or her** deputies, or the department of insurance, financial institutions and professional registration, as appropriate;

(4) **"Enterprise risk", any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as set forth in section 375.1255 or would cause the insurer to be in hazardous financial condition as set forth in section 375.539;**

(5) [An] "Insurance holding company system" [consists of], two or more affiliated persons, one or more of which is an insurer;

[(5) The term] (6) "Insurer" [means], an insurance company as defined in section 375.012, including a reciprocal or interinsurance exchange, and which is qualified and licensed by the department of insurance, financial institutions and professional registration of Missouri to transact the business of insurance in this state; but it shall not include any company organized and doing business under [chapters] **chapter 377, 378, or 380, agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;**

[(6) A] (7) "Person" [is], an individual, corporation, **limited liability company**, partnership, association, joint stock company, [business] trust, unincorporated organization, or any similar entity, or any combination of the foregoing acting in concert, but [is not any securities broker performing no more than the usual and customary broker's function] **shall not include any joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property;**

[(7)] (8) A "securityholder" of a specified person is one who owns any security of that person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing;

[(8)] (9) A "subsidiary" of a specified person is an affiliate controlled by that person directly, or indirectly through one or more intermediaries;

[(9)] (10) The term "voting security" includes any security convertible into or evidencing a right to acquire a voting security.

382.040. SECURITIES OF DOMESTIC INSURERS, REGULATION OF TRADING IN — DIVESTMENT OF A CONTROLLING INTEREST, PROCEDURE. — **1.** No person other than the

issuer shall commence a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, he **or she** would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of the insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer unless, at the time the offer, request, or invitation is commenced or the agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, he **or she** has filed with the director and has sent to the insurer a statement containing the information required by section 382.050 and the offer, request, invitation, agreement or acquisition has been approved by the director in the manner prescribed by sections 382.010 to 382.300.

2. For purposes of sections 382.040 to 382.090, any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer in any manner shall file with the director, with a copy to the insurer, confidential notice of its proposed divestiture at least thirty days prior to the cessation of control. The director shall determine those instances in which the party or parties seeking to divest or to acquire a controlling interest in an insurer shall be required to file for and obtain approval of the transaction. The information shall remain confidential until the conclusion of the transaction. If the statement referred to in subsection 1 of this section is otherwise filed, the provisions of this subsection shall not apply.

3. With respect to a transaction subject to this section, the acquiring person shall also file a preacquisition notification with the director which shall contain the information set forth in subsection 3 of section 382.095. A failure to file the notification may be subject to the penalties specified in subsection 7 of section 382.095.

4. For purposes of this section, a domestic insurer shall include any person controlling a domestic insurer unless such person, as determined by the director, is either directly or through its affiliates primarily engaged in business other than the business of insurance; however, such person shall file a preacquisition notification with the director containing the information set forth in section 382.095 thirty days prior to the proposed effective date of the acquisition. Any person who fails to file the preacquisition notification required by this section shall be subject to the penalties provided in subsection 5 of section 382.095. For the purposes of sections 382.040, 382.050, 382.060, 382.070, 382.080 and 382.090, "person" shall not include any securities broker holding, in the usual and customary broker's function, less than twenty percent of the voting securities of an insurance company or of any person which controls an insurance company.

382.050. STATEMENT, CONTENTS. — 1. The statement to be filed with the director shall be made under oath or affirmation and shall contain the following [information]:

(1) The name and address of each person hereinafter called "acquiring party" by whom or on whose behalf the merger or other acquisition of control referred to in section 382.040 is to be effected, and

(a) If that person is an individual, his **or her** principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years; and

(b) If that person is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as that person and any predecessors thereof have been in existence;

(c) An informative description of the business intended to be done by that person and its subsidiaries; and

(d) A list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such

positions. The list shall include for each such individual the information required by paragraph (a) of subdivision (1) of subsection 1 of this section;

(2) The source, nature and amount of the consideration to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, including any pledge of the insurer's stock or the stock of any subsidiaries or controlling affiliates, and the identity of persons furnishing such consideration, but, where a source of the consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests;

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement;

(4) Any plans or proposals which each acquiring party may have to liquidate the insurer, to sell its assets, to merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management;

(5) The number of shares of any security referred to in section 382.040 which each acquiring party proposes to acquire;

(6) The terms of the proposed offer, request, invitation, agreement, or acquisition referred to in section 382.040, and a statement as to the method by which the fairness of the proposal was arrived at;

(7) The amount of each class of any security referred to in section 382.040 which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(8) A full description of any contracts, arrangements or understandings with respect to any security referred to in section 382.040 in which any acquiring party proposes to be or is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been or will be entered into;

(9) A description of the purchase of any security referred to in section 382.040 during the twelve calendar months preceding the filing of the statement by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor;

(10) A description of any recommendations to purchase any security referred to in section 382.040 made during the twelve calendar months preceding the filing of the statement by any acquiring party, or by anyone based upon interviews or at the suggestion of such acquiring party;

(11) Copies of the form of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in section 382.040, and of the form of additional soliciting material, if distributed, relating thereto;

(12) The terms of any agreement, contract or understanding made with or proposed to be made with any broker-dealer as to solicitation of securities referred to in section 382.040 for tender, and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto; [and]

(13) **An agreement by the person required to file the statement referred to in section 382.040 that the annual report specified in section 382.175 will be provided for so long as control exists;**

(14) **An acknowledgment by the person required to file the statement referred to in section 382.040 that such person and all subsidiaries within its control in the insurance holding company system shall provide information to the director upon request as necessary to evaluate enterprise risk to the insurer; and**

(15) Such additional information as the director may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.

2. If the person required to file the statement referred to in section 382.040 is a partnership, limited partnership, syndicate or other group, the director may require that the information called for by subdivisions (1) to [(13)] (15) of subsection 1 of this section shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member or person is a corporation or the person required to file the statement referred to in section 382.040 is a corporation, the director may require that the information called for by subdivisions (1) to [(13)] (15) of subsection 1 of this section shall be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of the corporation.

3. If any material change occurs in the facts set forth in the statement filed with the director and sent to the insurer pursuant to this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the director and shall be sent to the insurer within two business days after the person learns of the change.

4. If any offer, request, invitation, agreement or acquisition referred to in section 382.040 is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in section 382.040 may utilize such documents in furnishing the information called for by that statement.

382.060. APPROVAL OF MERGER OR ACQUISITION OF CONTROL, WHEN — HEARING, NOTICE — CONSOLIDATED HEARING, WHEN — CHANGE OF CONTROL, RESTORATION OF CAPITAL, WHEN. — 1. The director shall [hold a public hearing on the proposed] **approve any** merger or other acquisition of control referred to in section 382.040 [and shall thereafter approve such merger or acquisition of control unless he finds by a preponderance of the evidence] **unless after a public hearing the director finds that:**

(1) After the change of control the domestic insurer referred to in section 382.040 would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(2) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein. In applying the competitive standard in this subdivision:

(a) The informational requirements of subsection 3 of section 382.095 and the standards of subsection 4 of section 382.095 shall apply;

(b) The merger or other acquisition of control shall not be disapproved if the director finds that any of the situations meeting the criteria provided by subsection 4 of section 382.095 exist; and

(c) The director may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(3) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(4) The plans or proposals which the acquiring party has to liquidate the insurer, to sell its assets or to consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer and contrary to the public interest;

(5) The competence, experience or integrity of those persons who would control the operation of the insurer are such that it would be contrary to the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(6) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

2. Any disapproval made by the director shall be in writing and shall contain specific findings of fact supporting it.

3. The public hearing referred to above in this section shall be held within thirty days after the statement required by section 382.040 is filed, and at least twenty days' notice thereof shall be given by the director to the person filing the statement. Not less than seven days' notice of the public hearing shall be given by the person filing the statement to the insurer and to such other persons and in such manner as may be designated by the director. The director shall make a determination within thirty days after the conclusion of the hearing. At the hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith may conduct discovery proceedings in the same manner as is presently allowed in the circuit courts of this state. All discovery proceedings shall be concluded not later than three days prior to the commencement of the public hearing.

4. **If the proposed acquisition of control requires the approval of more than one state insurance commissioner, the public hearing referred to in subsection 3 of this section may be held on a consolidated basis upon request of the person filing the statement referred to in section 382.040. Such person shall file the statement referred to in section 382.040 with the National Association of Insurance Commissioners within five days of making the request for a public hearing. A state insurance commissioner may opt out of a consolidated hearing and shall provide notice to the applicant of the opt out within ten days of the receipt of the statement referred to in section 382.040. A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the insurance commissioners of the states in which the insurers are domiciled. Such commissioners shall hear and receive evidence. A state insurance commissioner may attend such hearing in person or by telecommunication.**

5. **In connection with a change of control of a domestic insurer, any determination by the director that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and regulations of this state shall be made not later than sixty days after the date of notification of the change of control submitted under subsection 1 of section 382.040.**

6. The director may retain at the acquiring party's expense any attorneys, actuaries, accountants and other experts not otherwise a part of the director's staff as may be reasonably necessary to assist the director in reviewing the proposed acquisition of control.

382.080. PROHIBITED ACTS. — The following shall be violations of sections [382.010 to 382.300] **382.040 to 382.090**:

(1) The failure to file any statement, amendment, or other material required to be filed pursuant to section 382.040 or 382.050; or

(2) The effectuation or any attempt to effectuate an acquisition of control of, **divestiture of**, or merger with[, a domestic insurer covered by sections [382.010 to 382.300, within the thirty-day period referred to in section 382.060, without approval by the director or after disapproval by the director] **382.040 to 382.090, unless the director has given approval.**

382.095. ACQUISITIONS WHERE CHANGE OF CONTROL OF INSURER, SUBJECT TO ORDER, WHEN — CONTENTS, REQUIREMENTS — VIOLATIONS, PENALTIES. — 1. As used in this section, the following terms mean:

(1) "Acquisition", any agreement, arrangement or activity the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes but is not limited to the acquisition of voting securities, the acquisition of assets, bulk reinsurance and mergers;

(2) "Involved insurer" includes an insurer which either acquires or is acquired, is affiliated with an acquirer or acquired or is the result of a merger.

2. Except as provided in this subsection, this section applies to any acquisition in which there is a change in control of an insurer authorized to do business in this state. This section shall not apply to the following [as provided in section 382.060]:

(1) [An acquisition subject to approval or disapproval by the director;

(2)] A purchase of securities solely for investment purposes so long as such securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this state. If a purchase of securities results in a presumption of control under subdivision (2) of section 382.010, it is not solely for investment purposes unless the commissioner of insurance or other appropriate person of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and such disclaimer action or affirmative finding is communicated by such person to the director;

[(3)] (2) The acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance, if preacquisition notification is filed with the director in accordance with subsection 3 of this section thirty days prior to the proposed effective date of the acquisition; however, such preacquisition notification is not required for exclusion from this section if the acquisition would otherwise be excluded from this section by any other subdivision of this subsection;

[(4)] (3) The acquisition of already affiliated persons;

[(5)] (4) An acquisition if, as an immediate result of the acquisition:

(a) In no market would the combined market share of the involved insurers exceed five percent of the total market;

(b) There would be no increase in any market share; or

(c) In no market would the combined market share of the involved insurers exceed twelve percent of the total market, and the market share of the involved insurer after the acquisition would increase by two percent of the total market or less. For the purpose of this subdivision, a "market" means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state;

[(6)] (5) An acquisition for which a preacquisition notification would be required pursuant to this section due solely to the resulting effect on the ocean marine insurance line of business;

[(7)] (6) An acquisition of an insurer whose domiciliary commissioner or other appropriate person affirmatively finds that such insurer is in failing condition; there is a lack of feasible alternative to improving such condition; the public benefits of improving such insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition; and such findings are communicated by such person to the director.

3. An acquisition covered by [subdivisions (1) to (7) of] subsection 2 of this section may be subject to an order pursuant to subsection 5 of this section, unless the acquiring person files a preacquisition notification and the waiting period described in this subsection has expired. The acquired person or acquiring person may file a preacquisition notification. The director shall give confidential treatment to information submitted under this subsection. The preacquisition notification shall be in such form and contain such information as prescribed by the National Association of Insurance Commissioners relating to those markets which, under subdivision [(5)] (4) of subsection 2 of this section cause the acquisition not to be exempted from the provisions of this section. The director may require such additional material and information as he **or she** deems necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subsection 4 of this section. The required information may include an opinion of an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of such person indicating his **or her** ability to render an informed opinion. The waiting period required shall begin on the date of receipt by the director of a preacquisition notification and shall end on the earlier of the thirtieth

day after the date of such receipt, or termination of the waiting period by the director. Prior to the end of the waiting period, the director on a one-time basis may require the submission of additional needed information relevant to the proposed acquisition, in which event the waiting period shall end on the earlier of the thirtieth day after receipt of such additional information by the director or termination of the waiting period by the director.

4. (1) The director may enter an order under subsection 5 of this section with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in any line of insurance in this state or tend to create a monopoly therein or if the insurer fails to file adequate information in compliance with subsection 3 of this section.

(2) In determining whether a proposed acquisition would violate the competitive standard of subdivision (1) of this subsection, the director shall consider the following:

(a) Any acquisition covered under subsection 2 of this section involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standards:

a. If the market is highly concentrated and the involved insurers possess the following share of the market:

Insurer A	Insurer B
4%	4% or more
10%	2% or more
15%	1% or more; or

b. If the market is not highly concentrated and the involved insurers possess the following share of the market:

Insurer A	Insurer B
5%	5% or more
10%	4% or more
15%	3% or more
19%	1% or more

A highly concentrated market is one in which the share of the four largest insurers is seventy-five percent or more of the market. Percentages not shown in the tables are to be interpolated proportionately to the percentages that are shown. If more than two insurers are involved, exceeding the total of the two columns in the table is prima facie evidence of violation of the competitive standard in subdivision (1) of this subsection. For the purpose of this subdivision, the insurer with the largest share of the market shall be deemed to be insurer A;

(b) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market, from the two largest to the eight largest, has increased by seven percent or more of the market over a period of time extending from any base year five to ten years prior to the acquisition up to the time of the acquisition. Any acquisition or merger covered under subsection 2 of this section involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in subdivision (1) of this subsection if:

a. There is a significant trend toward increased concentration in the market;

b. One of the insurers involved is one of the insurers in a grouping of such large insurers showing the requisite seven percent or more increase in the market share; and

c. Another involved insurer's market is two percent or more.

(3) For the purposes of subdivision (2) of this subsection:

(a) The term "insurer" includes any company or group of companies under common management, ownership or control;

(b) The term "market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the director shall give due consideration to, among other things, the definitions or guidelines, if any, promulgated by the National Association of Insurance Commissioners and to information, if any, submitted by

parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, such line being that used in the annual statement required to be filed by insurers doing business in this state, and the relevant geographical market is assumed to be this state;

(c) The burden of showing prima facie evidence of violation of the competitive standard rests upon the director.

(4) Even though an acquisition is not prima facie violative of the competitive standard under subdivision (2) of this subsection, the director may establish that the requisite anticompetitive effect exists based upon other substantial evidence. Even though an acquisition is prima facie violative of the competitive standard under subdivision (2) of this subsection, a party may establish the absence of the requisite anticompetitive effect, based upon other substantial evidence. Relevant factors in making a determination under this subdivision include, but are not limited to, the following: market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry and exit into the market.

(5) An order [may] **shall** not be entered under subsection 5 of this section if:

(a) The acquisition will yield substantial economies of scale or economies in resource use that cannot be feasibly achieved in any other way, and the public benefits which would arise from such economies exceed the public benefits which would arise from not lessening competition; or

(b) The acquisition will substantially increase the availability of insurance, and the public benefits of such increase exceed the public benefits which would arise from not lessening competition.

5. If an acquisition violates the standards of this section, the director may enter an order:

(1) Requiring an involved insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or

(2) Denying the application of an acquired or acquiring insurer for a license to do business in this state. Such an order shall not be entered unless there is a hearing, notice of such hearing is issued prior to the end of the waiting period and not less than fifteen days prior to the hearing, and the hearing is concluded and the order is issued no later than sixty days after the end of the waiting period. Every order shall be accompanied by a written decision of the director setting forth his **or her** findings of fact and conclusions of law. An order entered under this subsection shall not become final earlier than thirty days after it is issued, during which time any involved insurer may submit a plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon such plan or other information, the director shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the standards of this section would be remedied and the order vacated or modified. An order issued pursuant to this subsection shall not apply if the acquisition is not consummated.

6. Any person who violates a cease and desist order of the director under subsection 5 of this section, and while such order is in effect, may, after notice and hearing and upon order of the director, be subject at the discretion of the director to any one or more of the following:

(1) A monetary penalty of not more than ten thousand dollars for every day of violation;

or

(2) Suspension or revocation of such person's license.

7. Any insurer or other person who fails to make any filing required by this section and who also fails to demonstrate a good faith effort to comply with any such filing requirement shall be subject to a fine of not more than fifty thousand dollars.

8. Sections 382.260 and 382.280 do not apply to acquisitions covered by subsection 2 of this section.

382.110. REGISTRATION, FORM, CONTENTS, EXEMPTED MATTER. — 1. Every insurer subject to registration shall file a registration statement on a form provided by the director containing current information about:

(1) The capital structure, general financial condition, ownership and management of the insurer and any person controlling the insurer;

(2) The identity of every member of the insurance holding company system;

(3) The following agreements in force, relationships subsisting, and transactions currently outstanding between the insurer and its affiliates:

(a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(b) Purchases, sales, or exchanges of assets;

(c) Transactions not in the ordinary course of business;

(d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(e) All management and service contracts and all cost-sharing arrangements; and

(f) Reinsurance agreements;

(g) Dividends and other distributions to shareholders; and

(h) Consolidated tax allocation agreements;

(4) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system; [and]

(5) Financial statements of or within an insurance holding company system, including all affiliates, if requested by the director. Financial statements may include, but are not limited to, annual audited financial statements filed with the United States Securities and Exchange Commission (SEC) under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended. An insurer required to file financial statements under this subdivision may satisfy such requirement by providing the director with the most recently filed parent corporation financial statements that have been filed with the SEC;

(6) Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures;

(7) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the director; and

(8) Any other information required by the director by rule.

2. All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

3. No information need be disclosed on the registration statement filed pursuant to subsection 1 of this section if such information is not material for the purposes of that subsection. Unless the director by rule, regulation or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments, involving one-half of one percent or less of an insurer's admitted assets as of the thirty-first day of December next preceding shall not be deemed material for purposes of subsection 1 of this section.

4. Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer, where such information is reasonably necessary to enable the insurer to comply with the provisions of sections 382.010 to 382.300.

382.160. EXEMPTION FROM REGISTRATION AND REPORTS, HOW AND WHEN. — The provisions of sections 382.100 [and 382.110] to **382.180** shall not apply to any insurer, information or transaction if and to the extent that the director by rule, regulation, or order shall exempt the same from such provisions.

382.170. DISCLAIMER OF AFFILIATION, EFFECT OF. — Any person may file with the director a disclaimer of affiliation with any authorized insurer or the disclaimer may be filed by the insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. [After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under section 382.110 which may arise out of the insurer's relationship with such person unless and until the director disallows the disclaimer. The director shall disallow the disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance.] **A disclaimer of affiliation shall be deemed to have been granted unless the director, within thirty days following receipt of a complete disclaimer, notifies the filing party that the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party shall be relieved of its duty to register under this section if approval of the disclaimer has been granted by the director or if the disclaimer is deemed to have been approved.**

382.175. ENTERPRISE RISK REPORT, CONTENTS, FILING OF, DUE DATE. — Upon request of the director, the ultimate controlling person of every insurer subject to registration shall file an annual enterprise risk report. The report shall be appropriate to the nature, scale, and complexity of the operations of the insurance holding company and shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system, if any, that could pose enterprise risk to the insurer. The report shall be filed with the lead state insurance commissioner of the insurance holding company system as determined by procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners. The first enterprise risk report shall be due and filed no later than May 1, 2016, and annually thereafter by the first day of May each year, unless the lead state insurance commissioner extends the time for filing for good cause shown.

382.180. FAILURE TO FILE REGISTRATION STATEMENT, SUMMARY, OR ENTERPRISE RISK REPORT A VIOLATION. — The failure to file a registration statement [or any amendment thereto], **summary of the registration statement, or enterprise risk filing required under sections 382.100 to 382.180** within the time specified for the filing is a violation of sections [382.010 to 382.300] **382.100 to 382.180.**

382.190. TRANSACTIONS WITH AFFILIATES, HOW CONDUCTED. — Material transactions by registered insurers with their affiliates are subject to the following standards:

- (1) The terms shall be fair and reasonable;
- (2) Charges or fees for services shall be reasonable;
- (3) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;
- (4) The books, accounts and records of each party shall be maintained so as to clearly and accurately disclose the precise nature and details of the transactions **including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties;** [and]
- (5) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs; **and**
- (6) **Agreements for cost-sharing services and management shall include such provisions as required by the director by rule.**

382.195. PROHIBITED TRANSACTIONS, EXCEPTIONS. — 1. The following transactions involving a domestic insurer and any person in its holding company system [may], **including**

amendments or modifications of affiliate agreements previously filed under this section that are subject to any materiality standards contained in subdivisions (1) to (7) of this subsection, shall not be entered into unless the insurer has notified the director in writing of its intention to enter into such transaction at least thirty days prior thereto, or such shorter period as the director may permit, and the director has not disapproved it within such period:

(1) Sales, purchases, exchanges, loans [or], extensions of credit, [guarantees,] or investments if such transactions are equal to or exceed, with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders, or with respect to life insurers, three percent of the insurer's admitted assets, each as of the thirty-first day of December of the preceding year;

(2) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes such loans or extensions of credit with agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit provided such transactions are equal to or exceed, with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders, or with respect to life insurers, three percent of the insurer's admitted assets; each as of the thirty-first day of December of the preceding year;

(3) Reinsurance agreements or modifications thereto, **including:**

(a) **All reinsurance pooling agreements;**

(b) **Agreements** in which the reinsurance premium or a change in the insurer's liabilities, **or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years** equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the thirty-first day of December of the preceding year, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer;

(4) All management agreements, **tax allocation agreements**, service contracts, and all cost-sharing arrangements; [and]

(5) **Guarantees when made by a domestic insurer; provided, however, that a guarantee which is quantifiable as to amount is not subject to the notice requirements of this subdivision unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or ten percent of surplus as regards policyholders as of the thirty-first day of December next preceding. Further, all guarantees which are not quantifiable as to amount are subject to the notice requirements of this subdivision;**

(6) **Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount which, together with its present holding in such investments, exceeds two and one-half percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired under section 382.020 or authorized under any other provision of this chapter or in nonsubsidiary insurance affiliates that are subject to the provisions of this chapter are exempt from such requirement; and**

(7) Any material transactions, specified by regulation, which the director determines may adversely affect the interests of the insurer's policyholders.

The notice for amendments or modifications shall include the reasons for the change and the financial impact on the domestic insurer.

2. The provisions of **subsection 1** of this section shall not be deemed to authorize or permit any transactions which, in the case of an insurer not a member of the same holding company system, would be otherwise contrary to law.

[2.] **3.** A domestic insurer [may] **shall** not enter into transactions which are part of a plan or series of like transactions with persons within the **insurance** holding company system if the

purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the director determines that such separate transactions were entered into over any twelve-month period for such purpose, [he] **the director** may exercise his **or her** authority under section 382.265.

4. In reviewing transactions under subsection 1 of this section, the director shall consider whether the transactions comply with the standards set forth in section 382.190 and whether they may adversely affect the interest of policyholders.

5. The director shall be notified within thirty days of any investment of the domestic insurer in any one corporation if the total investment in the corporation by the insurance holding company system exceeds ten percent of the corporation's voting securities.

382.220. DIRECTOR, POWERS OF — INSURER LIABLE FOR EXAMINATION COSTS. — 1. Subject to the limitation contained in this section and in addition to all the other powers with which the director is vested by law relating to the examination of insurers, the director may [order] **examine** any insurer registered under the provisions of sections [382.010 to 382.300] **382.100 to 382.180 and its affiliates to ascertain the financial condition of the insurer including the enterprise risk to the insurer by the ultimate controlling party, by any entity or combination of entities within the insurance holding company system, or by the insurance company system on a consolidated basis.**

2. The director may order any insurer registered under sections 382.100 to 382.180 to produce such records, books, or other information papers in the possession of the insurer or its affiliates as [shall be] **are reasonably necessary to [ascertain the financial condition or legality of conduct of the insurer. In the event the insurer fails to comply with the order, the director may examine such affiliates to obtain such information] **determine compliance with this chapter.****

3. To determine compliance with this chapter, the director may order any insurer registered under sections 382.100 to 382.180 to produce information not in the possession of the insurer if the insurer is able to obtain access to such information under contractual relationships, statutory obligations, or other methods. In the event the insurer is unable to obtain the information requested by the director, the insurer shall provide the director with a detailed explanation of the reason that the insurer is unable to obtain the information and the identity of the holder of such information. Whenever it appears to the director that the detailed explanation is without merit, the director shall have the power to examine the insurer to determine compliance with this section pursuant to the director's authority under section 374.205 and this section.

[2.] **4.** The director may retain at the registered insurer's expense such attorneys, actuaries, accountants and other experts not otherwise a part of the director's staff as shall be reasonably necessary to assist in the conduct of the examination under this section. Any persons so retained shall be under the direction and control of the director and shall act in a purely advisory capacity.

[3.] **5.** Each registered insurer producing for examination records, books and papers pursuant to this section shall be liable for and shall pay the expense of such examination in accordance with the provisions of section 374.220.

6. In the event the insurer fails to comply with an order, the director shall have the power to examine the affiliates to obtain the information. The director shall have the power to issue subpoenas, administer oaths, and examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the director may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. Every person shall be obligated to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. He or she shall be entitled to the same fees and mileage, if claimed, as a witness in section 491.280, which fees, mileage, and actual expense, if any, necessarily incurred in securing

the attendance of witnesses and their testimony, shall be itemized, charged against, and paid by the company being examined.

382.225. SUPERVISORY COLLEGE, POWERS OF DIRECTOR — INSURER LIABLE FOR EXPENSES OF DIRECTOR'S PARTICIPATION IN SUPERVISORY COLLEGE. — 1. With respect to any insurer registered under sections 382.100 to 382.180 and in accordance with subsection 3 of this section, the director shall also have the power to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in order to determine compliance by the insurer with this chapter. The powers of the director with respect to supervisory colleges include, but are not limited to, the following:

- (1) Initiating the establishment of a supervisory college;
- (2) Clarifying the membership and participation of other supervisors in the supervisory college;
- (3) Clarifying the functions of the supervisory college and the role of other regulators including the establishment of a group-wide supervisor or host, who may be the director;
- (4) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing; and
- (5) Establishing a crisis management plan.

2. Each registered insurer subject to this section shall be liable for and shall pay the reasonable expenses of the director's participation in a supervisory college in accordance with subsection 3 of this section including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the director may establish a regular assessment to the insurer for the payment of such expenses.

3. In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management and governance processes, and as part of the examination of individual insurers in accordance with section 382.220, the director may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates including other state, federal, and international regulatory agencies. The director may enter into agreements in accordance with subsection 3 of section 382.230 providing the basis for cooperation between the director and the other regulatory agencies and the activities of the supervisory college. Nothing in this section shall delegate to the supervisory college the authority of the director to regulate or supervise the insurer or its affiliates within the director's jurisdiction.

382.230. CERTAIN INFORMATION CONFIDENTIAL, EXCEPTION — PRIVATE CIVIL ACTION, DIRECTOR NOT REQUIRED TO TESTIFY — PERMISSIBLE ACTS OF THE DIRECTOR. —

1. All information, documents and copies thereof **in the possession or control of the director that are** obtained by or disclosed to the director or any other person in the course of an examination or investigation made [pursuant to] **under** section 382.220 and all information reported [pursuant to section] **under subdivisions (13) and (14) of subsection 1 of section 382.050 and sections 382.100 to 382.210** shall be given confidential treatment and **privileges; shall not be subject to the provisions of chapter 610; shall not be subject to subpoena [and]; shall not be made public by the director, the National Association of Insurance Commissioners, or any other person, except to the chief insurance regulatory official of other states[.]; and shall not be subject to discovery or admissible as evidence in any private civil action.** However, the director is authorized to use the documents, materials, or other information in furtherance of any regulatory or legal action brought as a part of the director's official duties. The director shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which it pertains unless

the director, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event [he] **the director** may publish all or any part thereof in such manner as he **or she** may deem appropriate.

2. Neither the director nor any person who receives documents, materials, or other information while acting under the authority of the director or with whom such documents, materials, or other information is shared under sections 382.010 to 382.300 shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or other information subject to subsection 1 of this section.

3. In order to assist in the performance of the director's duties, the director:

(1) May share documents, materials, or other information including the confidential and privileged documents, materials, or other information subject to subsection 1 of this section with other state, federal, and international financial regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities including members of any supervisory college described in section 382.225; provided that the recipient agrees in writing to maintain the confidentiality and privileged status of such documents, materials, or other information, and has verified in writing the legal authority to maintain confidentiality;

(2) Notwithstanding the provisions of subsection 1 of this section and subdivision (1) of this subsection, may share confidential and privileged documents, materials, or other information reported under section 382.175 only with the directors of states having statutes or regulations substantially similar to subsection 1 of this section and who have agreed in writing not to disclose such information;

(3) May receive documents, materials, or other information including otherwise confidential and privileged documents, materials, or information from the National Association of Insurance Commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information; and

(4) Shall enter into a written agreement with the National Association of Insurance Commissioners governing sharing and use of information provided under sections 382.010 to 382.300 consistent with this subsection that shall:

(a) Specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries under sections 382.010 to 382.300 including procedures and protocols for sharing by the National Association of Insurance Commissioners with other state, federal, and international regulators;

(b) Specify that ownership of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries under sections 382.010 to 382.300 remains with the director and that the National Association of Insurance Commissioner's use of such information is subject to the direction of the director;

(c) Require prompt notice to be given to an insurer whose confidential information in the possession of the National Association of Insurance Commissioners under sections 382.010 to 382.300 is subject to a request or subpoena to the National Association of Insurance Commissioners for disclosure or production; and

(d) Require the National Association of Insurance Commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners and its affiliates and

subsidiaries may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries under sections 382.010 to 382.300.

4. The sharing of information by the director under sections 382.010 to 382.300 shall not constitute a delegation of regulatory or rulemaking authority, and the director is solely responsible for the administration, execution, and enforcement of the provisions of sections 382.010 to 382.300.

5. No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or other information shall occur as a result of disclosure of such documents, materials, or other information to the director under this section or as a result of sharing as authorized in sections 382.010 to 382.300.

6. Documents, materials, or other information in the possession or control of the National Association of Insurance Commissioners under sections 382.010 to 382.300 shall be confidential by law and privileged, shall not be subject to disclosure under chapter 610, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

382.277. VIOLATION, BASIS FOR DISAPPROVING DIVIDENDS OR DISTRIBUTIONS AND PLACING INSURER UNDER ORDER OF SUSPENSION. — Whenever it appears to the director that any person has committed a violation of sections 382.040 to 382.090 and the violation prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of suspension in accordance with section 375.1160.

382.278. INAPPLICABILITY OF CERTAIN PROVISIONS TO CERTAIN HOLDING COMPANIES. — The provisions of subdivisions (13) and (14) of subsection 1 of section 382.050, subdivision (5) of subsection 1 of section 382.110, and sections 382.175 and 382.220 shall not apply to an insurance holding company or its affiliates if the insurance company affiliates of such insurance holding company had total premiums, direct and ceded, of less than one hundred fifty million dollars in the preceding year and such insurance holding company certifies in writing to the director that more than twenty-five percent of the employees of its affiliates, not including insurance affiliates or the holding company itself, are engaged in agricultural operations.

382.500. APPLICABILITY — FINDINGS OF GENERAL ASSEMBLY. — 1. The provisions of sections 382.500 to 382.550 shall apply to all insurers domiciled in this state that are not exempt under section 382.525.

2. The general assembly finds and declares that an own risk and solvency assessment (ORSA) summary report contains confidential and sensitive information related to an insurer or insurance group's identification of risks material and relevant to the insurer or insurance group filing such report. Such information includes proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if such information is made public. An ORSA summary report shall be a confidential document filed with the director, shall be shared only as stated in sections 382.500 to 382.550 to assist the director in the performance of the director's duties, and shall not be subject to public disclosure.

382.505. DEFINITIONS. — As used in sections 382.500 to 382.550, the following terms shall mean:

(1) "Director", the director of the department of insurance, financial institutions and professional registration;

(2) "Insurance group", those insurers and affiliates included within an insurance holding company system as defined in sections 382.010 to 382.300;

(3) "Insurer", the same meaning as such term is defined in section 382.010; except that, insurer shall not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;

(4) "NAIC", the National Association of Insurance Commissioners;

(5) "Own risk and solvency assessment" or "ORSA", a confidential internal assessment appropriate to the nature, scale, and complexity of an insurer or insurance group conducted by such insurer or insurance group of the material and relevant risks associated with the insurer's or insurance group's current business plan, and the sufficiency of capital resources to support such risks;

(6) "ORSA guidance manual", the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners (NAIC), as amended. A change in the ORSA guidance manual shall be effective on January first following the calendar year in which the changes have been adopted by the NAIC;

(7) "ORSA summary report", a confidential high-level summary of an insurer's or insurance group's own risk and solvency assessment.

382.510. RISK MANAGEMENT FRAMEWORK TO BE MAINTAINED. — An insurer shall maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on its material and relevant risks. Such requirement may be satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

382.515. ORSA TO BE CONDUCTED, WHEN. — Subject to the provisions of section 382.525, an insurer or the insurance group of which the insurer is a member shall conduct an ORSA consistent with a process comparable to the ORSA guidance manual. An ORSA shall be conducted no less than annually and additionally at any time when there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member, as determined by the insurer or the insurance group.

382.520. ORSA SUMMARY REPORT REQUIRED, WHEN, CONTENTS. — 1. Upon the director's request and no more than once each year, an insurer shall submit to the director an ORSA summary report or any combination of reports that together contain the information described in the ORSA guidance manual applicable to the insurer and to the insurance group of which the insurer is a member. Notwithstanding any request from the director, if the insurer is a member of an insurance group, the insurer shall submit the report or reports required under this subsection if the director is the lead state regulator of the insurance group as determined by the procedures within the Financial Analysis Handbook adopted by the National Association of Insurance Commissioners.

2. The report or reports shall include a signature of the insurer's or insurance group's chief risk officer or other executive having responsibility for the oversight of the insurer's enterprise risk management process attesting to the best of his or her belief and knowledge that the insurer applies the enterprise risk management process described in the ORSA summary report and that a copy of the report has been provided to the insurer's board of directors or the appropriate committee thereof.

3. An insurer may comply with subsection 1 of this section by providing the most recent and substantially similar report or reports provided by the insurer or another member of an insurance group of which the insurer is a member to the director of another state or to a supervisor or regulator of a foreign jurisdiction if such report or

reports provide information that is comparable to the information described in the ORSA guidance manual. Any such report or reports in a language other than English shall be accompanied by a translation of such report or reports into the English language.

382.525. EXEMPTIONS — WAIVER — ORSA REQUIRED, WHEN. — 1. An insurer shall be exempt from the requirements of sections 382.500 to 382.550 if:

(1) The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than five hundred million dollars; and

(2) The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and the Federal Flood Program, of less than one billion dollars.

2. If an insurer qualifies for exemption under subdivision (1) of subsection 1 of this section, but the insurance group of which the insurer is a member does not qualify for exemption under subdivision (2) of subsection 1 of this section, the ORSA summary report that may be required under section 382.520 shall include every insurer within the insurance group. Such requirement may be satisfied by the submission of more than one ORSA summary report for any combination of insurers, provided any combination of reports includes every insurer within the insurance group.

3. If an insurer does not qualify for exemption under subdivision (1) of subsection 1 of this section, but the insurance group of which the insurer is a member qualifies for exemption under subdivision (2) of subsection 1 of this section, the only ORSA summary report that may be required under section 382.520 is the report applicable to such insurer.

4. An insurer that does not qualify for exemption under subsection 1 of this section may apply to the director for a waiver from the requirements of sections 382.500 to 382.550 based upon unique circumstances. In deciding whether to grant the insurer's request for waiver, the director may consider the type and volume of business written, ownership and organizational structure, and any other factor the director considers relevant to the insurer or insurance group of which the insurer is a member. If the insurer is part of an insurance group with insurers domiciled in more than one state, the director shall coordinate with the lead state director or regulator and with the other domiciliary state directors or regulators in considering whether to grant the insurer's request for a waiver.

5. Notwithstanding the exemptions in this section, the director may require that an insurer maintain a risk management framework, conduct an ORSA, and file an ORSA summary report:

(1) Based on unique circumstances, including but not limited to the type and volume of business written, ownership and organization structure, federal agency requests, and international supervisor requests;

(2) If the insurer has risk-based capital for company action level event as set forth in section 375.1255 or other applicable risk-based capital law, meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in section 375.539, or otherwise exhibits qualities of a troubled insurer as determined by the director.

6. If an insurer that qualifies for an exemption under subsection 1 of this section subsequently no longer qualifies for such exemption due to changes in premium as reflected in the insurer's most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer shall have one year following the year in which the threshold is exceeded to comply with the requirements of sections 382.500 to 382.550.

382.530. ORSA SUMMARY REPORT TO BE PREPARED CONSISTENT WITH ORSA GUIDANCE MANUAL — REVIEW, PROCEDURES. — 1. An ORSA summary report shall be prepared consistent with the ORSA guidance manual, subject to the requirements of subsection 2 of this section. Documentation and supporting information shall be maintained and made available upon examination or upon request of the director.

2. The review of an ORSA summary report and any additional requests for information shall be made using similar procedures currently used in the analysis and examination of multistate or global insurers and insurance groups.

382.535. INFORMATION AND ORSA SUMMARY REPORT IS PROPRIETARY AND CONTAINS TRADE SECRETS, CONFIDENTIALITY — PERMISSIBLE ACTS BY DIRECTOR — NO WAIVER OF CONFIDENTIALITY OR PRIVILEGE. — 1. Documents, materials, or other information, including the ORSA summary report, in the possession of or control of the department of insurance, financial institutions and professional registration that are obtained by, created by, or disclosed to the director or any other person under sections 382.500 to 382.550 is recognized by this state as being proprietary and to contain trade secrets. All such documents, materials, or other information shall be confidential by law and privileged, shall not be subject to disclosure under chapter 610, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action; except that, the director is authorized to use such documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the director's official duties. The director shall not otherwise make such documents, materials, or other information public without the prior written consent of the insurer.

2. Neither the director nor any person who receives documents, materials, or other ORSA-related information, through examination or otherwise, while acting under the authority of the director or with whom such documents, materials, or other ORSA-related information are shared under sections 382.500 to 382.550 shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or other ORSA-related information subject to subsection 1 of this section.

3. In order to assist in the performance of the director's regulatory duties, the director:

(1) May, upon request, share documents, materials, or other ORSA-related information, including the confidential and privileged documents, materials, or other ORSA-related information subject to subsection 1 of this section, including proprietary and trade secret documents and materials with other state, federal, and international financial regulatory agencies, including members of any supervisory college authorized under this chapter, with the NAIC, and with any third-party consultants designated by the director; provided that, the recipient agrees in writing prior to receiving any such documents, materials, or other ORSA-related information to maintain the confidentiality and privileged status of such documents, materials, or other ORSA-related information and has verified in writing the legal authority to maintain confidentiality; and

(2) May receive documents, materials, or other ORSA-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college authorized under this chapter, and from the NAIC, and shall maintain as confidential or privileged any documents, materials, or other ORSA-related information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other ORSA-related information; and

(3) Shall enter into a written agreement with the NAIC or a third-party consultant governing sharing and use of ORSA-related information provided under sections 382.500 to 382.550 that is consistent with this subsection and that shall:

(a) Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC or a third-party consultant under sections 382.500 to 382.550, including procedures and protocols for sharing by the NAIC with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of ORSA-related documents, materials, or other ORSA-related information and has verified in writing the legal authority to maintain confidentiality;

(b) Specify that ownership of information shared with the NAIC or third-party consultant under sections 382.500 to 382.550 remains with the director and that the NAIC's or a third-party consultant's use of such information is subject to the direction of the director;

(c) Prohibit the NAIC or third-party consultant from storing any information shared under sections 382.500 to 382.550 in a permanent database after the underlying analysis is completed;

(d) Require prompt notice to be given to an insurer whose confidential information in the possession of the NAIC or a third-party consultant under sections 382.500 to 382.550 is subject to a request or subpoena to the NAIC or a third-party consultant for disclosure or production;

(e) Require the NAIC or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant under sections 382.500 to 382.550; and

(f) In the case of an agreement involving a third-party consultant, provide for the insurer's written consent.

4. The sharing of information and documents by the director under sections 382.500 to 382.550 shall not constitute a delegation of regulatory or rulemaking authority, and the director is solely responsible for the administration, execution, and enforcement of the provisions of sections 382.500 to 382.550.

5. No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade secret materials, or other ORSA-related information shall occur as a result of disclosure of such documents, materials, or ORSA-related information to the director under this section or as a result of sharing as authorized in sections 382.500 to 382.550.

6. Documents, materials, or other ORSA-related information in the possession or control of the NAIC or third-party consultants under sections 382.500 to 382.550 shall be confidential by law and privileged, shall not be subject to disclosure under chapter 610, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action.

382.540. VIOLATION, FAILURE TO FILE ORSA SUMMARY REPORT. — 1. Subject to subsection 1 of section 374.215, any insurer failing without just cause to timely file an ORSA summary report as required in sections 382.500 to 382.550 commits a level two violation under section 374.049 with respect to each day's delay.

2. The director may enforce the provisions of sections 382.500 to 382.550 under sections 374.046 to 374.049.

382.545. SEVERABILITY CLAUSE. — If any provision of sections 382.500 to 382.550 or the application thereof to any person or circumstance is held invalid, such determination shall not affect the provisions or applications of sections 382.500 to 382.550 which may be given effect without the invalid provision or application, and to that end the provisions of sections 382.500 to 382.550 are severable.

382.550. EFFECTIVE DATE — FIRST FILING DATE. — Sections 382.500 to 382.550 shall become effective January 1, 2016. The first filing of ORSA summary reports shall be in 2016 in accordance with section 382.520.

Approved June 3, 2015

HB 63 [SS SCS HCS#2 HB 63]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding persons seeking public office

AN ACT to repeal sections 162.481 and 162.491, RSMo, and to enact in lieu thereof four new sections relating to persons seeking public office, with an emergency clause.

SECTION

- A. Enacting clause.
- 115.308. Inapplicability of sections 115.307 to 115.405, when.
- 162.025. Superintendents ineligible for school board membership.
- 162.481. Elections in urban school districts, held when — elections in Springfield, post-2000 census urban school districts, St. Charles County, and Buchanan County.
- 162.491. Directors may be nominated by petition, when — contents of petition, certain districts — no petition required, Buchanan County.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 162.481 and 162.491, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 115.308, 162.025, 162.481, and 162.491, to read as follows:

115.308. INAPPLICABILITY OF SECTIONS 115.307 TO 115.405, WHEN. — Sections 115.307 to 115.405 shall not apply to candidates for special district offices; township offices in township organization counties; or city, town, and village offices.

162.025. SUPERINTENDENTS INELIGIBLE FOR SCHOOL BOARD MEMBERSHIP. — No person shall be a candidate for a member or director of the school board in any district in this state if such person has previously been employed by the district as the district's superintendent.

162.481. ELECTIONS IN URBAN SCHOOL DISTRICTS, HELD WHEN — ELECTIONS IN SPRINGFIELD, POST-2000 CENSUS URBAN SCHOOL DISTRICTS, ST. CHARLES COUNTY, AND BUCHANAN COUNTY. — 1. Except as otherwise provided in this section and in section 162.492, all elections of school directors in urban school districts shall be held biennially at the same times and places as municipal elections.

2. [In any urban district which includes all or the major part of a city which first obtained a population of more than seventy-five thousand inhabitants by reason of the 1960 federal decennial census, elections of directors shall be held on municipal election days of even-numbered years. The directors of the prior district shall continue as directors of the urban district until their successors are elected as herein provided. On the first Tuesday in April, 1964, four directors shall be elected, two for terms of two years to succeed the two directors of the prior district who were elected in 1960 and two for terms of six years to succeed the two directors of

the prior district who were elected in 1961. The successors of these directors shall be elected for terms of six years. On the first Tuesday in April, 1968, two directors shall be elected for terms to commence on November 5, 1968, and to terminate on the first Tuesday in April, 1974, when their successors shall be elected for terms of six years. No director shall serve more than two consecutive six-year terms after October 13, 1963.

3.] Except as otherwise provided in subsections 3, 4, and 5 of this section, hereafter when a seven-director district becomes an urban **school** district, the directors of the prior seven-director district shall continue as directors of the urban **school** district until the expiration of the terms for which they were elected and until their successors are elected as provided in this subsection. The first biennial school election for directors shall be held in the urban **school** district at the time provided in subsection 1 which is on the date of or subsequent to the expiration of the terms of the directors of the prior district which are first to expire, and directors shall be elected to succeed the directors of the prior district whose terms have expired. If the terms of two directors only have expired, the directors elected at the first biennial school election in the urban **school** district shall be elected for terms of six years. If the terms of four directors have expired, two directors shall be elected for terms of six years and two shall be elected for terms of four years. At the next succeeding biennial election held in the urban district, successors for the remaining directors of the prior seven-director district shall be elected. If only two directors are to be elected they shall be elected for terms of six years each. If four directors are to be elected, two shall be elected for terms of six years and two shall be elected for terms of two years. After seven directors of the urban district have been elected under this subsection, their successors shall be elected for terms of six years.

[4.] 3. In any school district in [any city with a population of one hundred thousand or more inhabitants which is located within a county of the first classification that adjoins no other county of the first classification, or any school district which becomes an urban school district by reason of the 2000 federal decennial census] **which a majority of the district is located in any home rule city with more than one hundred fifty-five thousand but fewer than two hundred thousand inhabitants**, elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and the terms shall be for three years and until their successors are duly elected and qualified for all directors elected on and after August 28, 1998.

4. **For any school district which becomes an urban school district by reason of the 2000 federal decennial census, elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and the terms shall be for three years and until their successors are duly elected and qualified for all directors elected on and after August 28, 2001.**

5. In any school district in any county with a charter form of government and with more than three hundred thousand but fewer than four hundred fifty thousand inhabitants which becomes an urban school district by reason of the 2010 federal decennial census, elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and the terms shall be for three years and until their successors are duly elected and qualified for all directors elected on and after April 2, 2012.

6. **In any urban school district in a county of the first classification with more than eighty-three thousand but fewer than ninety-two thousand inhabitants and with a home rule city with more than seventy-six thousand but fewer than ninety-one thousand inhabitants as the county seat, elections shall be held annually at the same times and places as general municipal elections for all years where one or more terms expire, and upon expiration of any term after August 28, 2015, the term of office shall be for three years and until their successors are duly elected and qualified.**

162.491. DIRECTORS MAY BE NOMINATED BY PETITION, WHEN — CONTENTS OF PETITION, CERTAIN DISTRICTS — NO PETITION REQUIRED, BUCHANAN COUNTY. — 1.

Directors for urban school districts, other than those districts containing the greater part of a city of over one hundred thirty thousand inhabitants, may be nominated by petition to be filed with the secretary of the board and signed by a number of voters in the district equal to ten percent of the total number of votes cast for the director receiving the highest number of votes cast at the next preceding biennial election, **except as provided in subsection 4 of this section.**

2. This section shall not be construed as providing the sole method of nominating candidates for the office of school director in urban districts which do not contain the greater part of a city of over three hundred thousand inhabitants.

3. A director for any urban school district containing a city of greater than one hundred thirty thousand inhabitants and less than three hundred thousand inhabitants may be nominated as an independent candidate by filing with the secretary of the board a petition signed by five hundred registered voters of such school district.

4. In any urban school district located in a home rule city with more than seventy-one thousand but fewer than seventy-nine thousand inhabitants, a candidate for director shall file a declaration of candidacy with the secretary of the board and shall not be required to submit a petition.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure uniform and final election practices in township organization counties, and cities, towns, and villages, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force upon its passage and approval.

Vetoed April 3, 2015

Overridden April 8, 2015

HB 88 [HB 88]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates July 3 of each year as "Organ Donor Recognition Day"

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of organ donor recognition day.

SECTION

A. Enacting clause.

9.157. July 3, Organ Donor Recognition Day.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.157, to read as follows:

9.157. JULY 3, ORGAN DONOR RECOGNITION DAY. — **July third of each year shall be known and designated as "Organ Donor Recognition Day". It is recommended to the people of the state that the day be appropriately observed through activities which will increase awareness of organ donation.**

Approved July 2, 2015

HB 92 [SS HB 92]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding the Department of Natural Resources

AN ACT to repeal sections 29.380, 259.010, 259.020, 259.030, 259.050, 259.070, 259.080, 259.100, 259.190, 259.210, 260.200, 260.225, 260.235, 260.250, 260.320, 260.325, 260.330, 260.335, 260.345, 260.395, 260.500, 444.600, 444.773, 621.250, 640.115, 643.075, 643.078, 644.011, 644.016, 644.051, 644.056, and 644.145, RSMo, and to enact in lieu thereof thirty-six new sections relating to the department of natural resources.

SECTION

- A. Enacting clause.
- 29.380. Solid waste management districts, authority to audit, when.
- 259.010. Council established.
- 259.020. Council membership.
- 259.030. Council officers.
- 259.050. Definitions.
- 259.052. Oil and gas resources fund created, use of moneys.
- 259.070. Powers and duties of council — rulemaking, procedure.
- 259.080. Permits — fee structure proposal.
- 259.100. Spacing of wells, exception, noncommercial gas wells.
- 259.190. Contraband, seizure and sale — proceeds and bond forfeitures paid into oil and gas remedial fund, purpose.
- 259.210. Threatened violations — injunction.
- 260.200. Definitions.
- 260.225. Duties of department — rules and regulations, promulgation of, procedures — model solid waste management plans, contents — coordination with other state agencies.
- 260.235. Appeal, judicial review, procedure — injunction based on seriousness of threat to environment — performance bond required, forfeited, when.
- 260.250. Major appliances, waste oil, yard waste and batteries, disposal restricted — recycling of certain items, addressed in solid waste management plan.
- 260.320. Executive board, meetings, selection of officers — powers, duties — contractual authority.
- 260.324. Grants, familial relationships not a disqualifier — voting restrictions.
- 260.325. Solid waste management plan, submitted to department, contents, procedures — approval, revision of plan — funds may be made available, purpose — audits.
- 260.330. Landfill fee, amount — solid waste management fund, created, purpose — department to enforce — transfer station, fee charged — free disposal day, notice.
- 260.335. Distribution of fund moneys, uses — grants, distribution of moneys — advisory board, solid waste, duties.
- 260.345. Solid waste advisory board, members — qualifications — duties and powers — removal of board member for failure to attend meetings, when — report — meetings.
- 260.395. Transportation of hazardous waste, how permitted — fees, how determined — notice prior to issuance of permit — permit not required of whom — application for certification, when — permit maintained for postclosure care period — leachate collection system required — railroad hazardous waste transportation, fee.
- 260.500. Definitions.
- 444.600. Permit — investigation, decision, hearing, court review — appeals.
- 444.773. Director to investigate applications — decision to issue or deny — denial of permit, appeal, procedure — commission to issue decision.
- 444.980. Appeal of permit decision, procedure.
- 621.250. Appeals from decisions of certain environmental commissions to be heard by administrative hearing commission — procedure.
- 640.115. Information to be furnished — approval of supplies — system changes to conform to rules — permit applications — appeals.
- 643.075. Construction without permit prohibited — denial, appeal, procedure — fee, exemption — natural resources protection fund, air pollution permit fee subaccount — city or county permit granted, effect.
- 643.078. Operation without permit prohibited — single permit for multiple sources — information to be submitted, time period — validation of permit, terms and conditions — time period — director shall enforce federal standards — appeal — city or county permit granted, effect.
- 643.650. Sulfur dioxide, ambient air quality monitoring or modeling network.

- 644.011. Statement of policy.
- 644.016. Definitions.
- 644.051. Prohibited acts — permits required, when, fee — bond required of permit holders, when — permit application procedures — rulemaking — limitation on use of permit fee moneys — permit shield provisions.
- 644.056. Investigations, when — misrepresentation or failure to disclose a violation, when — abatement orders, when — permits terminated, when — hearings — appeals.
- 644.145. Affordability finding required, when — definitions — procedures to be adopted — appeal of determination — annual report, contents.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 29.380, 259.010, 259.020, 259.030, 259.050, 259.070, 259.080, 259.100, 259.190, 259.210, 260.200, 260.225, 260.235, 260.250, 260.320, 260.325, 260.330, 260.335, 260.345, 260.395, 260.500, 444.600, 444.773, 621.250, 640.115, 643.075, 643.078, 644.011, 644.016, 644.051, 644.056, and 644.145, RSMo, are repealed and thirty-six new sections enacted in lieu thereof, to be known as sections 29.380, 259.010, 259.020, 259.030, 259.050, 259.052, 259.070, 259.080, 259.100, 259.190, 259.210, 260.200, 260.225, 260.235, 260.250, 260.320, 260.324, 260.325, 260.330, 260.335, 260.345, 260.395, 260.500, 444.600, 444.773, 444.980, 621.250, 640.115, 643.075, 643.078, 643.650, 644.011, 644.016, 644.051, 644.056, and 644.145, to read as follows:

29.380. SOLID WASTE MANAGEMENT DISTRICTS, AUTHORITY TO AUDIT, WHEN. — 1. The state auditor shall have the authority to audit solid waste management districts created under section 260.305 in the same manner as the auditor may audit any agency of the state.

2. Beginning August 28, [2012] **2015**, the state auditor [shall conduct an audit of each solid waste management district created under section 260.305 and thereafter shall] **may** conduct audits of [each] solid waste management [district] **districts** as he or she deems necessary. The state auditor may request reimbursement from the district for the costs of conducting the audit. **If the auditor requests such reimbursement, the solid waste management district shall reimburse the auditor for the costs of conducting the audit and the moneys shall be deposited in the petition audit revolving trust fund created under section 29.230. Such reimbursement shall be limited to two percent of the solid waste management district's annual monetary allocation.**

259.010. COUNCIL ESTABLISHED. — There shall be a "State Oil and Gas Council" composed of the following members in accordance with the provisions of section 259.020:

- (1) [One member from the division of geology and land survey] **The state geologist;**
- (2) One member from the department of economic development;
- (3) One member from the Missouri public service commission;
- (4) One member from the clean water commission;
- (5) One member from the Missouri University of Science and Technology petroleum engineering program;
- (6) One member from the Missouri Independent Oil and Gas Association; and
- (7) Two members from the public.

259.020. COUNCIL MEMBERSHIP. — The member entities in section 259.010 shall be represented on the council by the executive head of each respective entity, except that:

- (1) The Missouri University of Science and Technology shall be represented by a professor of petroleum engineering employed at the university;
- (2) The Missouri Independent Oil and Gas Association shall be represented by a designated member of the association; and
- (3) The public members shall be appointed to the council by the governor, with the advice and consent of the senate. Both public members shall have an interest in and knowledge of the

oil and gas industry, **and** both shall be residents of Missouri[, and at least one shall also be a resident of a county of the third or fourth classification]. The executive head of any member state agency, the professor of petroleum engineering at the Missouri University of Science and Technology and the member from the Missouri Independent Oil and Gas Association may from time to time authorize any member of the state agency's staff, another professor of petroleum engineering at the Missouri University of Science and Technology or another member of the Missouri Independent Oil and Gas Association, respectively, to represent it on the council and to fully exercise any of the powers and duties of the member representative.

259.030. COUNCIL OFFICERS. — 1. The council shall elect a chairman and vice chairman from the members of the council [other than the representative of the division of geology and land survey]. A chairman and vice chairman may serve more than a one-year term, if so elected by the members of the council.

2. The state geologist shall act as administrator for the council and shall be responsible for enforcing the provisions of this chapter.

259.050. DEFINITIONS. — Unless the context otherwise requires, the following words mean:

(1) "Certificate of clearance" means a permit prescribed by the council for the transportation or the delivery of oil or gas or product and issued or registered in accordance with the rule, regulation, or order requiring such permit;

(2) "Council", the state oil and gas council established by section 259.010;

(3) **"Department", the department of natural resources;**

(4) "Field", the general area underlain by one or more pools;

[(4)] (5) "Gas", all natural gas and all other fluid hydrocarbons which are produced at the wellhead and not hereinbelow defined as oil;

[(5)] (6) "Illegal gas" means gas which has been produced from any well within this state in excess of the quantity permitted by any rule, regulation, or order of the council;

[(6)] (7) "Illegal oil" means oil which has been produced from any well within the state in excess of the quantity permitted by any rule, regulation, or order of the council;

[(7)] (8) "Illegal product" means any product derived in whole or in part from illegal oil or illegal gas;

[(8)] (9) "Noncommercial gas well", a gas well drilled for the sole purpose of furnishing gas for private domestic consumption by the owner and not for resale or trade;

[(9)] (10) "Oil", crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas. **The term shall also include hydrocarbons that do not flow to a wellhead but are produced by other means, including those contained in oil-shale and oil-sand;**

[(10)] (11) "Owner", the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he produced therefrom either for himself or others or for himself and others;

[(11)] (12) "Pool", an underground reservoir containing a common accumulation of oil or gas or both; each zone of a structure which is completely separated from any other zone in the same structure is a "pool", as that term is used in this chapter;

[(12)] "Producer", the owner of a well or wells capable of producing oil or gas or both;]

(13) "Product", any commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural-gas gasoline, kerosene, [benzine] **benzene**, wash oil, waste oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or by-

products derived from oil or gas, and blends or mixtures of two or more liquid products or by-products derived from oil or gas whether [hereinabove] **herein** enumerated or not;

(14) "Reasonable market demand" means the demand for oil or gas for reasonable current requirements for consumption and use within and without the state, together with such quantities as are reasonably necessary for building up or maintaining reasonable working stocks and reasonable reserves of oil or gas or product;

(15) "Waste" means and includes:

(a) Physical waste, as that term is generally understood in the oil and gas industry, but not including unavoidable or accidental waste;

(b) The inefficient, excessive, or improper use of, or the unnecessary dissipation of, reservoir energy;

(c) The location, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner which causes, or tends to cause, reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or which causes or tends to cause unnecessary or excessive surface loss or destruction of oil or gas;

(d) The inefficient storing of oil;

(e) The production of oil or gas in excess of transportation or marketing facilities or in excess of reasonable market demand; and

(f) Through negligence, the unnecessary or excessive surface loss or destruction of oil or gas resulting from evaporation, seepage, leakage or deliberate combustion;

(16) "Well", any hole drilled in the earth for or in connection with the exploration, discovery, or recovery of oil or gas, or for or in connection with the underground storage of gas in natural formation, or for or in connection with the disposal of salt water, nonusable gas or other waste accompanying the production of oil or gas.

259.052. OIL AND GAS RESOURCES FUND CREATED, USE OF MONEYS. — 1. There is hereby created in the state treasury the "Oil and Gas Resources Fund" which shall consist of all gifts, donations, transfers, moneys appropriated by the general assembly, permit application fees collected under section 259.080, operating fees, closure fees, late fees, severance fees, and bequests to the fund. The fund shall be administered by the department of natural resources.

2. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys on such investments shall be credited to the fund.

3. After appropriation by the general assembly, the money in such fund shall be expended by the department to administer the provisions of chapter 259, and to collect, process, manage, interpret, and distribute geologic and hydrologic resource information pertaining to oil and gas potential, and not for any other purpose.

259.070. POWERS AND DUTIES OF COUNCIL — RULEMAKING, PROCEDURE. — 1. The council has the duty of administering the provisions of this chapter. The council shall meet at least once each calendar quarter of the year and upon the call of the chairperson.

2. The council shall conduct a review of the statutes and rules and regulations under this chapter on a biennial basis. Based on such review, the council, if necessary, shall recommend changes to the statutes under this chapter and shall amend rules and regulations accordingly.

3. (1) The council shall have the power and duty to form an advisory committee to the council for the purpose of reviewing the statutes and rules and regulations under subsection 2 of this section. The advisory committee shall make recommendations to the council when necessary to amend current statutes and rules and regulations under this chapter and shall review

any proposed new or amended statute or regulation before such proposed statute or regulation is considered by the council.

(2) The advisory committee shall be made up of representatives from the [division of geology and land survey] **department**, the oil and gas industry and any council member desiring to be on such advisory committee. The advisory committee shall meet prior to each calendar quarter meeting of the council, if necessary for the purposes set forth under this subsection, and present any recommendations to the council at such calendar quarter meeting. The council shall designate one of its members to serve as the chairperson of the advisory committee.

(3) The advisory committee may make recommendations to the council on appropriate fees or other funding mechanisms to support the oil and gas program efforts of the [division of geology and land survey] **department**.

4. The council, **acting through the department**, has the duty and authority to make such investigations as it deems proper to determine whether waste exists or is imminent or whether other facts exist which justify action.

5. The council, acting through the [office of the state geologist] **department**, has the authority:

(1) To require **through the issuance of appropriate orders**:

(a) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the refining or intrastate transportation of oil and gas;

(b) The making and filing of all mechanical well logs and the filing of directional surveys if taken, and the filing of reports on well location, drilling and production, and the filing free of charge of samples and core chips and of complete cores less tested sections, when requested in the office of the state geologist within six months after the completion or abandonment of the well;

(c) The drilling, casing, operation, and plugging of wells in such manner as to prevent the escape of oil or gas out of one stratum into another; the intrusion of water into oil or gas stratum; the pollution of fresh water supplies by oil, gas, or highly mineralized water; to prevent blowouts, cavings, seepages, and fires; and to prevent the escape of oil, gas, or water into workable coal or other mineral deposits;

(d) The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and regulations of the council prescribed to govern the production of oil and gas on state and private lands within the state of Missouri; provided that, in lieu of a bond with a surety, an applicant may furnish to the council his own personal bond, on conditions as described in this paragraph, secured by a certificate of deposit or an irrevocable letter of credit in an amount equal to that of the required surety bond or secured by some other financial instrument on conditions as above described or as provided by council regulations;

(e) That the production from wells be separated into gaseous and liquid hydrocarbons, and that each be accurately measured by such means and upon such standards as may be prescribed by the council;

(f) The operation of wells with efficient gas-oil and water-oil ratios, and to fix these ratios;

(g) Certificates of clearance in connection with the transportation or delivery of any native and indigenous Missouri produced crude oil, gas, or any product;

(h) Metering or other measuring of any native and indigenous Missouri-produced crude oil, gas, or product in pipelines, gathering systems, barge terminals, loading racks, refineries, or other places; and

(i) That every person who produces, sells, purchases, acquires, stores, transports, refines, or processes native and indigenous Missouri-produced crude oil or gas in this state shall keep and maintain within this state complete and accurate records of the quantities thereof, which records shall be available for examination by the council or its agents at all reasonable times and that every such person file with the council such reports as it may prescribe with respect to such oil or gas or the products thereof;

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- (2) To regulate pursuant to rules adopted by the council:
- (a) **The release and forfeiture of bonds required under paragraph (d) of subdivision (1) of subsection 5 of this section;**
- (b) The drilling, producing, and plugging of wells, and all other operations for the production of oil or gas;
- [b)] (c) The [shooting and chemical] treatment of wells;
- [c)] (d) The spacing of wells;
- [d)] (e) Operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; and
- [e)] (f) Disposal of highly mineralized water and oil field wastes;
- (3) To limit and to allocate the production of oil and gas from any field, pool, or area;
- (4) To classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter;
- (5) To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of this chapter;
- (6) To make rules, regulations, or orders for the classification of wells as oil wells or dry natural gas wells; or wells drilled, or to be drilled, for geological information; or as wells for secondary recovery projects; or wells for the disposal of highly mineralized water, brine, or other oil field wastes; or wells for the storage of dry natural gas, or casinghead gas; or wells for the development of reservoirs for the storage of liquid petroleum gas;
- (7) To detail such personnel and equipment or enter into such contracts as it may deem necessary for carrying out the plugging of or other remedial measures on wells which have been abandoned and not plugged according to the standards for plugging set out in the rules and regulations promulgated by the council pursuant to this chapter. Members of the council, **the department**, or authorized representatives may, with the consent of the owner or person in possession, enter any property for the purpose of investigating, plugging, or performing remedial measures on any well, or to supervise the investigation, plugging, or performance of remedial measures on any well. A reasonable effort to contact the owner or the person in possession of the property to seek his permission shall be made before members of the council, **the department**, or authorized representatives enter the property for the purposes described in this paragraph. If the owner or person in possession of the property cannot be found or refuses entry or access to any member of the council, **the department**, or to any authorized representative presenting appropriate credentials, the council **or the department** may request the attorney general to initiate in any court of competent jurisdiction an action for injunctive relief to restrain any interference with the exercise of powers and duties described in this subdivision. Any entry authorized under this subdivision shall be construed as an exercise of the police power for the protection of public health, safety and general welfare and shall not be construed as an act of condemnation of property nor of trespass thereon. Members of the council [and] , **the department**, or authorized representatives shall not be liable for any damages necessarily resulting from the entry upon land for purposes of investigating, plugging, or performing remedial measures or the supervision of such activity. However, if growing crops are present, arrangements for timing of such remedial work may be agreed upon between the state and landowner in order to minimize damages;
- (8) To develop such facts and make such investigations or inspections as are consistent with the purposes of this chapter. [Members of the council] **The department or its** authorized representatives may, with the consent of the owner or person in possession, enter upon any property for the purposes of inspecting or investigating any condition which the [council] **department** shall have probable cause to believe is subject to regulation under this chapter, the rules and regulations promulgated pursuant thereto or any permit issued by the [council] **department**. If the owner or person in possession of the property refuses entry or access for purposes of the inspections or investigations described, the [council] **department** or authorized
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representatives shall make application for a search warrant. Upon a showing of probable cause in writing and under oath, a suitable restricted search warrant shall be issued by any judge having jurisdiction for purposes of enabling inspections authorized under this subdivision. The results of any inspection or investigation pursuant to this subdivision shall be reduced to writing with a copy furnished to the owner, person in possession, or operator;

(9) To cooperate with landowners with respect to the conversion of wells drilled for oil and gas to alternative use as water wells as follows: the state geologist shall determine the feasibility of the conversion of a well drilled under a permit for oil and gas for use as a water well and shall advise the landowner of modifications required for conversion of the well in a manner that is consistent with the requirements of this chapter. If such conversion is carried out, release of the operator from legal liability or other responsibility shall be required and the expense of the conversion shall be borne by the landowner.

6. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

259.080. PERMITS — FEE STRUCTURE PROPOSAL. — 1. It shall be unlawful to commence operations for the drilling of a well for oil or gas, or to commence operations to deepen any well to a different geological formation, **or to commence injection activities for enhanced recovery of oil or gas or for disposal of fluids**, without first giving the state geologist notice of intention to drill **or intention to inject** and first obtaining a permit from the state geologist under such rules and regulations as may be prescribed by the council.

2. The department of natural resources may conduct a comprehensive review, and propose a new fee structure, or propose changes to the oil and gas fee structure, which may include but need not be limited to permit application fees, operating fees, closure fees, and late fees, and an extraction or severance fee. The comprehensive review shall include stakeholder meetings in order to solicit stakeholder input from each of the following groups: oil and gas industry representatives, the advisory committee, and any other interested parties. Upon completion of the comprehensive review, the department shall submit a proposed fee structure or changes to the oil and gas fee structure with stakeholder agreement to the oil and gas council. The council shall review such recommendations at the forthcoming regular or special meeting, but shall not vote on the fee structure until a subsequent meeting. If the council approves, by vote of two-thirds majority, the fee structure recommendations, the council shall authorize the department to file a notice of proposed rulemaking containing the recommended fee structure, and after considering public comments may authorize the department to file the final order of rulemaking for such rule with the joint committee on administrative rules under sections 536.021 and 536.024 no later than December first of the same year. If such rules are not disapproved by the general assembly in the manner set out in this section, they shall take effect on January first of the following year, at which point the existing fee structure shall expire. Any regulation promulgated under this subsection shall be deemed beyond the scope and authority provided in this subsection, or detrimental to permit applicants, if the general assembly, within the first sixty calendar days of the regular session immediately following the filing of such regulation, disapproves the regulation by concurrent resolution. If the general assembly so disapproved any regulation filed under this subsection, the department and the council shall not implement the proposed fee structure and shall continue to use the previous fee structure. The authority of the council to further revise the fee structure as provided in this subsection shall expire on August 28, 2025.

3. Failure to pay the fees, or any portion thereof, established under this section or to submit required reports, forms or information by the due date shall result in the imposition of a late fee established by the council. The department may issue an administrative order requiring payment of unpaid fees or may request that the attorney

general bring an action in the appropriate circuit court to collect any unpaid fee, late fee, interest, or attorney's fees and costs incurred directly in fee collection. Such action may be brought in the circuit court of Cole County, or, in the case of well fees, in the circuit court of the county in which the well is located.

259.100. SPACING OF WELLS, EXCEPTION, NONCOMMERCIAL GAS WELLS. — 1. The council shall set spacing units as follows:

(1) When necessary to prevent waste, to avoid the drilling of unnecessary wells, or to protect correlative rights, the council shall establish spacing units for a pool. Spacing units when established shall be of uniform size and shape for the entire pool, except that when found to be necessary for any of the purposes above mentioned, the council is authorized to divide any pool into zones and establish spacing units for each zone, which units may differ in size and shape from those established in any other zone;

(2) The size and shape of spacing units are to be such as will result in the efficient and economical development of the pool as a whole;

(3) An order establishing spacing units for a pool shall specify the size and shape of each unit and the location of the permitted well thereon in accordance with a reasonably uniform spacing plan. Upon application, if the state geologist finds that a well drilled at the prescribed location would not produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, the [state geologist] **department** is authorized to enter an order permitting the well to be drilled at a location other than that prescribed by such spacing order; however, the state geologist shall include in the order suitable provisions to prevent the production from the spacing unit of more than its just and equitable share of the oil and gas in the pool;

(4) An order establishing **spacing** units for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be modified by the [state geologist] **department** from time to time to include additional areas determined to be underlaid by such pool. When found necessary for the prevention of waste, or to avoid the drilling of unnecessary wells or to protect correlative rights, an order establishing spacing units in a pool may be modified by the state geologist to increase the size of spacing units in the pool or any zone thereof, or to permit the drilling of additional wells on a reasonable uniform plan in the pool, or any zone thereof. Orders of the [state geologist] **department** may be appealed to the council within thirty days.

2. [The provisions of subsection 1 of this section shall not apply to noncommercial gas wells.

3.] Applicants seeking a permit for a noncommercial gas well shall file a bond [or other instrument of credit acceptable to the council equal to the greater of three hundred dollars or one dollar and fifty cents per well foot] **under paragraph (d) of subdivision (1) of subsection 5 of section 259.070** and meet the following conditions and procedures: an owner of a noncommercial gas well with drilling rights may apply for the establishment of a drilling unit [containing no less than three acres,] with a well set back of one hundred sixty-five feet on which a well no deeper than eight hundred feet in depth may be drilled. An owner of a **noncommercial gas well** may apply to the [council] **department** for a variance to establish a [drilling] **spacing** unit [of less than three acres and/or less than one hundred sixty-five feet] , to set back **distances, or both.**

259.190. CONTRABAND, SEIZURE AND SALE — PROCEEDS AND BOND FORFEITURES PAID INTO OIL AND GAS REMEDIAL FUND, PURPOSE. — 1. Illegal oil, illegal gas, and illegal product are declared to be contraband and are subject to seizure and sale as herein provided; seizure and sale to be in addition to any and all other remedies and penalties provided in this chapter for violations relating to illegal oil, illegal gas, or illegal product. Whenever the council believes that any oil, gas or product is illegal, the council, acting by the attorney general, shall bring a civil action in rem in the circuit court of the county where such oil, gas, or product is found, to seize

and sell the same, or the council may include such an action in rem for the seizure and sale of illegal oil, illegal gas, or illegal product in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. Any person claiming an interest in oil, gas, or product affected by any such action shall have the right to intervene as an interested party in such action.

2. Actions for the seizure and sale of illegal oil, illegal gas, or illegal product shall be strictly in rem, and shall proceed in the name of the state as plaintiff against the illegal oil, illegal gas, or illegal products as defendant. No bond or similar undertaking shall be required of the plaintiff. Upon the filing of the petition for seizure and sale, the attorney general shall issue a notice, with a copy of the complaint attached thereto, which shall be served in the manner provided for service of original notices in civil actions, upon any and all persons having or claiming any interest in the illegal oil, illegal gas, or illegal products described in the petition. Service shall be completed by the filing of an affidavit by the person making the service, stating the time and manner of making such service. Any person who fails to appear and answer within the period of thirty days shall be forever barred by the judgment based on such service. If the court, on a properly verified petition, or affidavits, or oral testimony, finds that grounds for seizure and for sale exist, the court shall issue an immediate order of seizure, describing the oil, gas, or product to be seized and directing the sheriff of the county to take such oil, gas, or product into his custody, actual or constructive, and to hold the same subject to the further order of the court. The court, in such order of seizure, may direct the sheriff to deliver the oil, gas, or product seized by him under the order to an agent appointed by the court as the agent of the court; such agent to give bond in an amount and with such surety as the court may direct, conditioned upon his compliance with the orders of the court concerning the custody and disposition of such oil, gas, or product.

3. Any person having an interest in oil, gas, or product described in an order of seizure and contesting the right of the state to the seizure and sale thereof may, prior to the sale thereof as herein provided, obtain the release thereof, upon furnishing bond to the sheriff, approved by the court, in an amount equal to one hundred fifty percent of the market value of the oil, gas, or product to be released, and conditioned as the court may direct upon redelivery to the sheriff of such product released or upon payment to the sheriff of the market value thereof as the court may direct, if and when ordered by the court, and upon full compliance with the further orders of the court.

4. If the court, after a hearing upon a petition for the seizure and sale of oil, gas, or product, finds that such oil, gas, or product is contraband, the court shall order the sale thereof by the sheriff in the same manner and upon the same notice of sale as provided by law for the sale of personal property on execution of judgment entered in a civil action except that the court may order that the illegal oil, illegal gas, or illegal product be sold in specified lots or portions and at specified intervals. Upon such sale, title to the oil, gas, or product sold shall vest in the purchaser free of the claims of any and all persons having any title thereto or interest therein at or prior to the seizure thereof, and the same shall be legal oil, legal gas, or legal product, as the case may be, in the hands of the purchaser.

5. All proceeds derived from the sale of illegal oil, illegal gas, or illegal product, as above provided, after payment of costs of suit and expenses incident to the sale, **and** all amounts obtained by the council from the forfeiture of [surety or personal] bonds required under paragraph (d) of subdivision (1) **of subsection 5** of section 259.070, [and any money recovered under subsection 1 of section 259.200] shall be paid to the state treasurer and credited to the "Oil and Gas Remedial Fund", which is hereby created. The money in the oil and gas remedial fund may be used by the [council] **department** to pay for the plugging of, or other remedial measures on, wells [and to pay the expenses incurred by the council in performing the duties imposed on it by this chapter. Any unexpended balance in the fund at the end of the fiscal year not exceeding fifty thousand dollars is exempt from the provisions of section 33.080 relating to transfer of unexpended balances to the ordinary revenue funds]. **The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with**

sections 30.170 and 30.180. Notwithstanding the provisions of section 33.080, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

259.210. THREATENED VIOLATIONS—INJUNCTION. — 1. Whenever it appears that any person is violating or threatening to violate any provision of this chapter, or any rule, regulation, or order of the council, the council [shall] **or the department may request that the attorney general** bring suit against such person in the circuit court of any county where the violation occurs or is threatened, to restrain such person from continuing the violation or from carrying out the threat of violation. In any such suit, the court shall have jurisdiction to grant to the council, without bond or other undertaking, such prohibitory and mandatory injunctions as the facts may warrant, including temporary restraining orders, preliminary injunctions, temporary, preliminary, or final orders restraining the movement or disposition of any illegal oil, illegal gas, or illegal product, any of which the court may order to be impounded or placed in the custody of an agent appointed by the court.

2. If the council shall fail to bring suit to enjoin a violation or a threatened violation of any provision of this chapter, or any rule, regulation, or order of the council, within ten days after receipt of written request to do so by any person who is or will be adversely affected by such violation, the person making such request may bring suit in his own behalf to restrain such violation or threatened violation in any court in which the council might have brought suit. The council shall be made a party defendant in such suit in addition to the person violating or threatening to violate a provision of this chapter, or a rule, regulation, or order of the council, and the action shall proceed and injunctive relief may be granted to the council or the petitioner without bond in the same manner as if suit had been brought by the council.

260.200. DEFINITIONS. — 1. The following words and phrases when used in sections 260.200 to 260.345 shall mean:

(1) "Alkaline-manganese battery" or "alkaline battery", a battery having a manganese dioxide positive electrode, a zinc negative electrode, an alkaline electrolyte, including alkaline-manganese button cell batteries intended for use in watches, calculators, and other electronic products, and larger-sized alkaline-manganese batteries in general household use;

(2) "Applicant", a person or persons seeking or holding a facility permit;

(3) "Bioreactor", a municipal solid waste disposal area or portion of a municipal solid waste disposal area where the controlled addition of liquid waste or water accelerates both the decomposition of waste and landfill gas generation;

(4) "Button cell battery" or "button cell", any small alkaline-manganese or mercuric-oxide battery having the size and shape of a button;

(5) "City", any incorporated city, town, or village;

(6) "Clean fill", uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinderblocks, brick, minimal amounts of wood and metal, and inert solids as approved by rule or policy of the department for fill, reclamation or other beneficial use;

(7) "Closure", the permanent cessation of active disposal operations, abandonment of the disposal area, revocation of the permit or filling with waste of all areas and volumes specified in the permit and preparing the area for long-term care;

(8) "Closure plan", plans, designs and relevant data which specify the methods and schedule by which the operator will complete or cease disposal operations, prepare the area for long-term care, and make the area suitable for other uses, to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;

(9) "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences

between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;

(10) "Construction and demolition waste", waste materials from the construction and demolition of residential, industrial, or commercial structures, but shall not include materials defined as clean fill under this section;

(11) "Demolition landfill", a solid waste disposal area used for the controlled disposal of demolition wastes, construction materials, brush, wood wastes, soil, rock, concrete and inert solids insoluble in water;

(12) "Department", the department of natural resources;

(13) "Director", the director of the department of natural resources;

(14) "Disclosure statement", a sworn statement or affirmation, in such form as may be required by the director of the department of natural resources, which includes:

(a) The full names and business address of key personnel;

(b) The full name and business address of any entity, other than a natural person, that collects, transfers, processes, treats, stores, or disposes of solid waste in which all key personnel holds an equity interest of seven percent or more;

(c) A description of the business experience of all key personnel listed in the disclosure statement;

(d) For the five-year period ending on the date the sworn disclosure statement or affirmation is signed by key personnel:

a. A listing organized by issuing federal, state, or county or county-equivalent regulatory body of all environmental permits or licenses for the collection, transfer, treatment, processing, storage, or disposal of solid waste issued to or held by any key personnel;

b. A listing and explanation of notices of violation which shall by rule be defined, prosecutions, or other administrative enforcement actions resulting in an adjudication or conviction;

c. A listing of license or permit suspensions, revocations, or denials issued by any state, the federal government or a county or county equivalent, which are pending or have concluded with a finding of violation or entry of a consent agreement regarding an allegation of civil or criminal violation of law, regulation or requirement relating to the collection, transfer, treatment, processing, storage, or disposal of solid waste or violation of the environmental statutes of other states or federal statutes;

d. An itemized list of all felony convictions under the laws of the state of Missouri or the equivalent thereof under the laws of any other jurisdiction; and a listing of any findings of guilt for any crimes or criminal acts an element of which involves restraint of trade, price-fixing, intimidation of the customers of another person or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated pursuant to this chapter or similar laws of other states or the federal government including, but not limited to, racketeering or violation of antitrust laws of any key personnel;

(15) "District", a solid waste management district established under section 260.305;

(16) "Financial assurance instrument", an instrument or instruments, including, but not limited to, cash or surety bond, letters of credit, corporate guarantee or secured trust fund, submitted by the applicant to ensure proper closure and postclosure care and corrective action of a solid waste disposal area in the event that the operator fails to correctly perform closure and postclosure care and corrective action requirements, except that the financial test for the corporate guarantee shall not exceed one and one-half times the estimated cost of closure and postclosure. The form and content of the financial assurance instrument shall meet or exceed the requirements of the department. The instrument shall be reviewed and approved or disapproved by the attorney general;

(17) "Flood area", any area inundated by the one hundred year flood event, or the flood event with a one percent chance of occurring in any given year;

(18) "Household consumer", an individual who generates used motor oil through the maintenance of the individual's personal motor vehicle, vessel, airplane, or other machinery powered by an internal combustion engine;

(19) "Household consumer used motor oil collection center", any site or facility that accepts or aggregates and stores used motor oil collected only from household consumers or farmers who generate an average of twenty-five gallons per month or less of used motor oil in a calendar year. This section shall not preclude a commercial generator from operating a household consumer used motor oil collection center;

(20) "Household consumer used motor oil collection system", any used motor oil collection center at publicly owned facilities or private locations, any curbside collection of household consumer used motor oil, or any other household consumer used motor oil collection program determined by the department to further the purposes of sections 260.200 to 260.345;

(21) "Infectious waste", waste in quantities and characteristics as determined by the department by rule, including isolation wastes, cultures and stocks of etiologic agents, blood and blood products, pathological wastes, other wastes from surgery and autopsy, contaminated laboratory wastes, sharps, dialysis unit wastes, discarded biologicals known or suspected to be infectious; provided, however, that infectious waste does not mean waste treated to department specifications;

(22) "Key personnel", the applicant itself and any person employed by the applicant in a managerial capacity, or empowered to make discretionary decisions with respect to the solid waste operations of the applicant in Missouri, but shall not include employees exclusively engaged in the physical or mechanical collection, transfer, transportation, treatment, processing, storage, or disposal of solid waste and such other employees as the director of the department of natural resources may designate by regulation. If the applicant has not previously conducted solid waste operations in Missouri, the term also includes any officer, director, partner of the applicant, or any holder of seven percent or more of the equity or debt of the applicant. If any holder of seven percent or more of the equity or debt of the applicant or of any key personnel is not a natural person, the term includes all key personnel of that entity, provided that where such entity is a chartered lending institution or a reporting company under the federal Securities Exchange Act of 1934, the term does not include key personnel of such entity. Provided further that the term means the chief executive officer of any agency of the United States or of any agency or political subdivision of the state of Missouri, and all key personnel of any person, other than a natural person, that operates a landfill or other facility for the collection, transfer, treatment, processing, storage, or disposal of nonhazardous solid waste under contract with or for one of those governmental entities;

(23) "Lead-acid battery", a battery designed to contain lead and sulfuric acid with a nominal voltage of at least six volts and of the type intended for use in motor vehicles and watercraft;

(24) "Major appliance", clothes washers and dryers, water heaters, trash compactors, dishwashers, conventional ovens, ranges, stoves, woodstoves, air conditioners, refrigerators and freezers;

(25) "Mercuric-oxide battery" or "mercury battery", a battery having a mercuric-oxide positive electrode, a zinc negative electrode, and an alkaline electrolyte, including mercuric-oxide button cell batteries generally intended for use in hearing aids and larger size mercuric-oxide batteries used primarily in medical equipment;

(26) "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;

(27) "Motor oil", any oil intended for use in a motor vehicle, as defined in section 301.010, train, vessel, airplane, heavy equipment, or other machinery powered by an internal combustion engine;

- (28) "Motor vehicle", as defined in section 301.010;
 - (29) "Operator" and "permittee", anyone so designated, and shall include cities, counties, other political subdivisions, authority, state agency or institution, or federal agency or institution;
 - (30) "Permit modification", any permit issued by the department which alters or modifies the provisions of an existing permit previously issued by the department;
 - (31) "Person", any individual, partnership, limited liability company, corporation, association, trust, institution, city, county, other political subdivision, authority, state agency or institution, or federal agency or institution, or any other legal entity;
 - (32) "Plasma arc technology", a process that converts electrical energy into thermal energy. This electric arc is created when an ionized gas transfers electric power between two or more electrodes;
 - (33) "Postclosure plan", plans, designs and relevant data which specify the methods and schedule by which the operator shall perform necessary monitoring and care for the area after closure to achieve the purposes of sections 260.200 to 260.345 and the regulations promulgated thereunder;
 - (34) "Recovered materials", those materials which have been diverted or removed from the solid waste stream for sale, use, reuse or recycling, whether or not they require subsequent separation and processing;
 - (35) "Recycled content", the proportion of fiber in a newspaper which is derived from postconsumer waste;
 - (36) "Recycling", the separation and reuse of materials which might otherwise be disposed of as solid waste;
 - (37) "Resource recovery", a process by which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;
 - (38) "Resource recovery facility", a facility in which recyclable and recoverable material is removed from the waste stream to the greatest extent possible, as determined by the department and pursuant to department standards, for reuse or remanufacture;
 - (39) "Sanitary landfill", a solid waste disposal area which accepts commercial and residential solid waste;
 - (40) "Scrap tire", a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect;
 - (41) "Scrap tire collection center", a site where scrap tires are collected prior to being offered for recycling or processing and where fewer than five hundred tires are kept on site on any given day;
 - (42) "Scrap tire end-user facility", a site where scrap tires are used as a fuel or fuel supplement or converted into a usable product. Baled or compressed tires used in structures, or used at recreational facilities, or used for flood or erosion control shall be considered an end use;
 - (43) "Scrap tire generator", a person who sells tires at retail or any other person, firm, corporation, or government entity that generates scrap tires;
 - (44) "Scrap tire processing facility", a site where tires are reduced in volume by shredding, cutting, or chipping or otherwise altered to facilitate recycling, resource recovery, or disposal;
 - (45) "Scrap tire site", a site at which five hundred or more scrap tires are accumulated, but not including a site owned or operated by a scrap tire end-user that burns scrap tires for the generation of energy or converts scrap tires to a useful product;
 - (46) "Solid waste", garbage, refuse and other discarded materials including, but not limited to, solid and semisolid waste materials resulting from industrial, commercial, agricultural, governmental and domestic activities, but does not include hazardous waste as defined in sections 260.360 to 260.432, recovered materials, overburden, rock, tailings, matte, slag or other waste material resulting from mining, milling or smelting;
 - (47) "Solid waste disposal area", any area used for the disposal of solid waste from more than one residential premises, or one or more commercial, industrial, manufacturing, recreational, or governmental operations;
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- (48) "Solid waste fee", a fee imposed pursuant to sections 260.200 to 260.345 and may be:
- (a) A solid waste collection fee imposed at the point of waste collection; or
 - (b) A solid waste disposal fee imposed at the disposal site;
- (49) "Solid waste management area", a solid waste disposal area which also includes one or more of the functions contained in the definitions of recycling, resource recovery facility, waste tire collection center, waste tire processing facility, waste tire site or solid waste processing facility, excluding incineration;
- (50) **"Solid waste management project", a targeted project that meets statewide waste reduction and recycling priorities, and for which no solid waste management district grant applicant has applied to perform, and for which no qualified applicants have applied to perform such project by a competitive bid issued by the solid waste management district for the completion of such project;**
- (51) "Solid waste management system", the entire process of managing solid waste in a manner which minimizes the generation and subsequent disposal of solid waste, including waste reduction, source separation, collection, storage, transportation, recycling, resource recovery, volume minimization, processing, market development, and disposal of solid wastes;
- [(51)] (52) "Solid waste processing facility", any facility where solid wastes are salvaged and processed, including:
- (a) A transfer station; or
 - (b) An incinerator which operates with or without energy recovery but excluding waste tire end-user facilities; or
 - (c) A material recovery facility which operates with or without composting;
 - (d) A plasma arc technology facility;
- [(52)] (53) "Solid waste technician", an individual who has successfully completed training in the practical aspects of the design, operation and maintenance of a permitted solid waste processing facility or solid waste disposal area in accordance with sections 260.200 to 260.345;
- [(53)] (54) "Tire", a continuous solid or pneumatic rubber covering encircling the wheel of any self-propelled vehicle not operated exclusively upon tracks, or a trailer as defined in chapter 301, except farm tractors and farm implements owned and operated by a family farm or family farm corporation as defined in section 350.010;
- [(54)] (55) "Used motor oil", any motor oil which, as a result of use, becomes unsuitable for its original purpose due to loss of original properties or the presence of impurities, but used motor oil shall not include ethylene glycol, oils used for solvent purposes, oil filters that have been drained of free flowing used oil, oily waste, oil recovered from oil tank cleaning operations, oil spilled to land or water, or industrial nonlube oils such as hydraulic oils, transmission oils, quenching oils, and transformer oils;
- [(55)] (56) "Utility waste landfill", a solid waste disposal area used for fly ash waste, bottom ash waste, slag waste and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels;
- [(56)] (57) "Yard waste", leaves, grass clippings, yard and garden vegetation and Christmas trees. The term does not include stumps, roots or shrubs with intact root balls.
2. For the purposes of this section and sections 260.270 to 260.279 and any rules in place as of August 28, 2005, or promulgated under said sections, the term "scrap" shall be used synonymously with and in place of waste, as it applies only to scrap tires.

260.225. DUTIES OF DEPARTMENT — RULES AND REGULATIONS, PROMULGATION OF, PROCEDURES — MODEL SOLID WASTE MANAGEMENT PLANS, CONTENTS — COORDINATION WITH OTHER STATE AGENCIES. — 1. The department shall administer sections 260.200 to 260.345 to maximize the amount of recovered materials and to minimize disposal of solid waste in sanitary landfills. The department shall, through its rules and regulations, policies and programs, encourage to the maximum extent practical, the use of alternatives to disposal. To accomplish these objectives, the department shall:

(1) Administer the state solid waste management program pursuant to the provisions of sections 260.200 to 260.345;

(2) Cooperate with appropriate federal, state, and local units of government of this or any other state, and with appropriate private organizations in carrying out its authority under sections 260.200 to 260.345;

(3) Promulgate and adopt, after public hearing, such rules and regulations relating to solid waste management systems as shall be necessary to carry out the purposes and provisions of sections 260.200 to 260.345;

(4) Develop a statewide solid waste management plan in cooperation with local governments, regional planning commissions, districts, and appropriate state agencies;

(5) Provide technical assistance to cities, counties, districts, and authorities;

(6) Develop and conduct a mandatory solid waste technician training course of study;

(7) Conduct and contract for research and investigations in the overall area of solid waste storage, collection, recycling, recovery, processing, transportation and disposal, including, but not limited to, new and novel procedures;

(8) Subject to appropriation by the general assembly, establish criteria for awarding state-funded solid waste management [planning] grants to cities, counties, and districts, allocate funds, and monitor the proper expenditure of funds;

(9) Issue such permits and orders and conduct such inspections as may be necessary to implement the provisions of sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345;

(10) Initiate, conduct and support research, demonstration projects, and investigations with applicable federal programs pertaining to solid waste management systems;

(11) Contract with cities, counties, districts and other persons to act as its agent in carrying out the provisions of sections 260.200 to 260.345 under procedures and conditions as the department shall prescribe.

2. The department shall prepare model solid waste management plans suitable for rural and urban areas which may be used by districts, counties and cities. In preparing the model plans, the department shall consider the findings and recommendations of the study of resource recovery conducted pursuant to section 260.038, and other relevant information. The plans shall conform with the requirements of section 260.220 and section 260.325 and shall:

(1) Emphasize waste reduction and recycling;

(2) Provide for economical waste management through regional **and district** cooperation;

(3) Be designed to achieve a reduction of forty percent in solid waste disposed, by weight, by January 1, 1998;

(4) Establish a means to measure the amount of reduction in solid waste disposal;

(5) Provide for the elimination of small quantities of hazardous waste, including household hazardous waste, from the solid waste stream; and

(6) Be designed to guide planning in districts, cities and counties including cities and counties not within a district.

3. The model plan shall be distributed to the executive board of each solid waste district and to counties and cities not within a district by December 1, 1991.

4. No rule or portion of a rule promulgated under the authority of sections 260.200 to 260.345 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024.

5. In coordination with other appropriate state agencies, including, but not limited to, the division of commerce and industrial development, the office of administration, the environmental improvement and energy resource authority, and the public service commission, the department shall perform the following duties in order to promote resource recovery in the state in ways which are economically feasible:

(1) Identify markets for recovered materials and for energy which could be produced from solid waste and household hazardous waste;

- (2) Provide technical assistance pertaining to all aspects of resource recovery to cities, counties, districts, industries and other persons;
- (3) Identify opportunities for resource recovery programs in state government and initiate actions to implement such programs;
- (4) Expand state contracts for procurement of items made from recovered materials;
- (5) Initiate recycling programs within state government;
- (6) Provide a clearinghouse of consumer information regarding the need to support resource recovery, utilize and develop new resource recovery programs around existing enterprises, request and purchase recycled products, participate in resource conservation activities and other relevant issues;
- (7) Identify barriers to resource recovery and resource conservation, and propose remedies to these barriers; and
- (8) Initiate activities with appropriate state and local entities to develop markets for recovered materials.

260.235. APPEAL, JUDICIAL REVIEW, PROCEDURE — INJUNCTION BASED ON SERIOUSNESS OF THREAT TO ENVIRONMENT — PERFORMANCE BOND REQUIRED, FORFEITED, WHEN. — Any person aggrieved by a forfeiture of any financial assurance instrument, civil or administrative penalty or denial, suspension or revocation of a permit required by section 260.205 or a modification to a permit issued under section 260.205 or any disapproval of the plan required by section 260.220, may appeal such decision as provided in [section] **sections 621.250], subject to judicial review as provided by law] and 640.013 by filing a petition with the administrative hearing commission within thirty days of the decision.** The notice of the department shall be effected by certified mail and shall set forth the reasons for such forfeiture, disapproval, denial, suspension, civil penalty or revocation. The department may seek an injunction in the circuit court in which the facility is located requiring the facility for which the transfer of ownership has been denied, or the permit or modification of the permit has been denied, suspended or revoked, to cease operations from the date ordered by the court until such time as the appeal is resolved or obtain a performance bond in the amount and manner as prescribed by rule. The department's action seeking an injunction shall be based on the seriousness of the threat to the environment which continued operation of the facility poses. A bond may be required in order to stay the effect of the department's action until the appeal is resolved, in which case such bond shall remain in place until the appeal is resolved. If the department's decision is upheld, the bond shall be forfeited and placed in a separate subaccount of the solid waste management fund. **Once the administrative hearing commission has reviewed the appeal, the administrative hearing commission shall make a final decision on the forfeiture of any financial assurance instrument, civil or administrative penalty, denial, suspension, revocation, or modification of a permit or disapproval of the plan required by section 260.220. The administrative hearing commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the solid waste processing facility or disposal area is located or is to be located shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.**

260.250. MAJOR APPLIANCES, WASTE OIL, YARD WASTE AND BATTERIES, DISPOSAL RESTRICTED — RECYCLING OF CERTAIN ITEMS, ADDRESSED IN SOLID WASTE MANAGEMENT PLAN. — 1. After January 1, 1991, major appliances, waste oil and lead-acid batteries shall not be disposed of in a solid waste disposal area. After January 1, 1992, yard waste shall not be disposed of in a solid waste disposal area, except as otherwise provided in this subsection. After August 28, 2007, yard waste may be disposed of in a municipal solid waste disposal area or portion of a municipal solid waste disposal area provided that:

(1) The department has approved the municipal solid waste disposal area or portion of a solid waste disposal area to operate as a bioreactor under 40 CFR Part 258.4; and

(2) The landfill gas produced by the bioreactor shall be used for the generation of electricity.

2. After January 1, 1991, waste oil shall not be incinerated without energy recovery.

3. Each **solid waste management** district[, county and city] shall address the recycling, reuse and handling of aluminum containers, glass containers, newspapers, **textiles**, whole tires, plastic beverage containers and steel containers in its solid waste management plan consistent with sections 260.250 to 260.345.

260.320. EXECUTIVE BOARD, MEETINGS, SELECTION OF OFFICERS — POWERS, DUTIES — CONTRACTUAL AUTHORITY. — 1. The executive board shall meet within thirty days after the selection of the initial members. The time and place of the first meeting of the board shall be designated by the council. A majority of the members of the board shall constitute a quorum. At its first meeting the board shall elect a chairman from its members and select a secretary, treasurer and such officers or employees as it deems expedient or necessary for the accomplishment of its purposes. The secretary and treasurer need not be members of the board.

2. The executive board may adopt, alter or repeal its own bylaws, rules and regulations governing the manner in which its business may be transacted, including procedures for the replacement of persons who habitually fail to attend board meetings, and may establish its fiscal year, adopt an official seal, apply for and accept grants, gifts or appropriations from any public or private sector, make all expenditures which are incidental and necessary to carry out its purposes and powers, and take such action, enter into such agreements and exercise all other powers and functions necessary or appropriate to carry out the duties and purposes of sections 260.200 to 260.345.

3. The executive board shall:

(1) Review and comment upon applications for permits submitted pursuant to section 260.205, for solid waste processing facilities and solid waste disposal areas which are to be located within the region or, if located in an adjacent region, which will impact solid waste management practices within the region;

(2) Prepare and recommend to the council a solid waste management plan for the district;

(3) Identify illegal dump sites and provide all available information about such sites to the appropriate county prosecutor and to the department;

(4) Establish an education program to inform the public about responsible **solid** waste management practices;

(5) Establish procedures to minimize the introduction of small quantities of hazardous waste, including household hazardous waste, into the solid waste stream;

(6) Assure adequate capacity to manage waste which is not otherwise removed from the solid waste stream; and

(7) Appoint one or more geographically balanced advisory committees composed of the representatives of commercial generators, representatives of the solid waste management industry, and two citizens unaffiliated with a solid waste facility or operation to assess and make recommendations on solid waste management.

4. The executive board may enter into contracts with any person **or entity** for services related to any component of the solid waste management system. Bid specifications for solid waste management services shall be designed to meet the objectives of sections 260.200 to 260.345, encourage small businesses to engage and compete in the delivery of **solid** waste management services and to minimize the long-run cost of managing solid waste. Bid specifications shall enumerate the minimum components and minimum quantities of waste products which shall be recycled by the successful bidder. The board shall divide the district into units to maximize access for small businesses when it requests bids for solid waste management services, **but in no case shall a district executive board perform solid waste management projects that compete with a qualified private enterprise.**

5. No person shall serve as a member of the council or of the executive board who is a stockholder, officer, agent, attorney or employee or who is in any way pecuniarily interested in any business which engages in any aspect of solid waste management regulated under sections 260.200 to 260.345; provided, however, that such member may own stock in a publicly traded corporation which may be involved in **solid** waste management as long as such holdings are not substantial.

260.324. GRANTS, FAMILIAL RELATIONSHIPS NOT A DISQUALIFIER — VOTING RESTRICTIONS. — 1. Any person or entity that applies for a grant under section 260.335 shall not be disqualified from receiving such grant on the basis that there exists a familial relationship between the applicant and any member of the solid waste management district executive board within the fourth degree by consanguinity or affinity. For applicants with a familial relationship with any member of the solid waste management district executive board within the fourth degree by consanguinity or affinity, the solid waste management district executive board shall only approve such grant application if approved by a vote of two-thirds of the solid waste management district executive board.

2. If a person, who by virtue of his or her membership on a solid waste management district executive board, does not abstain from a vote to award a solid waste management district grant to any person or entity providing solid waste management services who is a relative within the fourth degree by consanguinity or affinity, the person shall forfeit membership on the solid waste management district executive board and the solid waste management district council.

260.325. SOLID WASTE MANAGEMENT PLAN, SUBMITTED TO DEPARTMENT, CONTENTS, PROCEDURES — APPROVAL, REVISION OF PLAN — FUNDS MAY BE MADE AVAILABLE, PURPOSE — AUDITS. — 1. The executive board of each district shall submit to the department a plan which has been approved by the council for a solid waste management system serving areas within its jurisdiction and shall, from time to time, submit officially adopted revisions of its plan as it deems necessary or the department may require. In developing the district's solid waste management plan, the board shall consider the model plan distributed to the board pursuant to section 260.225. Districts may contract with a licensed professional engineer or as provided in chapter 70 for the development and submission of a joint plan.

2. The board shall hold at least one public hearing in each county in the district when it prepares a proposed plan or substantial revisions to a plan in order to solicit public comments on the plan.

3. The solid waste management plan shall be submitted to the department within eighteen months of the formation of the district. The plan shall be prepared and submitted according to the procedures specified in section 260.220 and this section.

4. Each plan shall:

(1) Delineate areas within the district where solid waste management systems are in existence;

(2) Reasonably conform to the rules and regulations adopted by the department for implementation of sections 260.200 to 260.345;

(3) Delineate provisions for the collection of recyclable materials or collection points for recyclable materials;

(4) Delineate provisions for the collection of compostable materials or collection points for compostable materials;

(5) Delineate provisions for the separation of household waste and other small quantities of hazardous waste at the source or prior to disposal;

(6) Delineate provisions for the orderly extension of solid waste management services in a manner consistent with the needs of the district, including economic impact, and in a manner which will minimize degradation of the waters or air of the state, prevent public nuisances or

health hazards, promote recycling and waste minimization and otherwise provide for the safe and sanitary management of solid waste;

(7) Take into consideration existing comprehensive plans, population trend projections, engineering and economics so as to delineate those portions of the district which may reasonably be expected to be served by a solid waste management system;

(8) Specify how the district will achieve a reduction in solid waste placed in sanitary landfills through waste minimization, reduction and recycling;

(9) Establish a timetable, with milestones, for the reduction of solid waste placed in a landfill through waste minimization, reduction and recycling;

(10) Establish an education program to inform the public about responsible waste management practices;

(11) Establish procedures to minimize the introduction of small quantities of hazardous waste, including household hazardous waste, into the solid waste stream;

(12) Establish a time schedule and proposed method of financing for the development, construction and operation of the planned solid waste management system together with the estimated cost thereof;

(13) Identify methods by which rural households that are not served by a regular solid waste collection service may participate in waste reduction, recycling and resource recovery efforts within the district; and

(14) Include such other reasonable information as the department shall require.

5. The board shall review the district's solid waste management plan at least every twenty-four months for the purpose of evaluating the district's progress in meeting the requirements and goals of the plan, and shall submit plan revisions to the department and council.

6. In the event any plan or part thereof is disapproved, the department shall furnish any and all reasons for such disapproval and shall offer assistance for correcting deficiencies. The executive board shall within sixty days revise and resubmit the plan for approval or request a hearing in accordance with section 260.235. Any plan submitted by a district shall stand approved one hundred twenty days after submission unless the department disapproves the plan or some provision thereof.

7. The director may institute appropriate action under section 260.240 to compel submission of plans in accordance with sections 260.200 to 260.345 and the rules and regulations adopted pursuant to sections 260.200 to 260.345.

8. [The provisions of section 260.215 to the contrary notwithstanding, any county within a region which on or after January 1, 1995, is not a member of a district shall by June 30, 1995, submit a solid waste management plan to the department of natural resources. Any county which withdraws from a district and all cities within the county with a population over five hundred shall submit a solid waste plan or a revision to an existing plan to the department of natural resources within one hundred eighty days of its decision not to participate. The plan shall meet the requirements of section 260.220 and this section.

9.] Funds may, upon appropriation, be made available to [cities, counties and] districts[,] under section 260.335, for the purpose of implementing the requirements of this section.

[10.] **9. Based upon the financial assistance amounts set forth in this section, the district executive board shall arrange for an independent financial [audits] statement audit of the records and accounts of its operations by a certified public accountant or a firm of certified public accountants. Districts receiving [two] more than eight hundred thousand dollars [or more] of financial assistance annually shall have annual independent financial statement audits [and] ; districts receiving [less than] between two hundred fifty thousand dollars and eight hundred thousand dollars of financial assistance annually shall have a biennial independent financial [audits at least once every two years. The state auditor may examine the findings of such audits and may conduct audits of the districts] statement audit for the two-year period. All other districts shall be monitored biennially by the department and, based upon the findings within the monitoring report, may be required to arrange for an independent**

financial statement audit for the biennial monitoring period under review. Subject to limitations caused by the availability of resources, the department shall conduct a performance audit of grants to each district at least once every [three] **five years, or as deemed necessary by the department based upon district grantee performance.**

260.330. LANDFILL FEE, AMOUNT — SOLID WASTE MANAGEMENT FUND, CREATED, PURPOSE — DEPARTMENT TO ENFORCE — TRANSFER STATION, FEE CHARGED — FREE DISPOSAL DAY, NOTICE. — 1. Except as otherwise provided in subsection 6 of this section, effective October 1, 1990, each operator of a solid waste sanitary landfill shall collect a charge equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted and each operator of the solid waste demolition landfill shall collect a charge equal to one dollar per ton or its volumetric equivalent of solid waste accepted. Each operator shall submit the charge, less collection costs, to the department of natural resources for deposit in the "Solid Waste Management Fund" which is hereby created. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. No annual adjustment shall be made to the charge imposed under this subsection during October 1, 2005, to October 1, [2017] **2027**, except an adjustment amount consistent with the need to fund the operating costs of the department and taking into account any annual percentage increase in the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste to be transported out of this state for disposal that is accepted at transfer stations. No annual increase during October 1, 2005, to October 1, [2017] **2027**, shall exceed the percentage increase measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency and calculated on the percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the discretion of the director, subject to appropriations. Collection costs shall be established by the department and shall not exceed two percent of the amount collected pursuant to this section.

2. The department shall, by rule and regulation, provide for the method and manner of collection.

3. The charges established in this section shall be enumerated separately from the disposal fee charged by the landfill and may be passed through to persons who generated the solid waste. Moneys [shall be] transmitted to the department shall be no less than the amount collected less collection costs and in a form, manner and frequency as the department shall prescribe. The provisions of section 33.080 to the contrary notwithstanding, moneys in the account shall not lapse to general revenue at the end of each biennium. Failure to collect the charge does not relieve the operator from responsibility for transmitting an amount equal to the charge to the department.

4. The department may examine or audit financial records and landfill activity records and measure landfill usage to verify the collection and transmittal of the charges established in this section. The department may promulgate by rule and regulation procedures to ensure and to verify that the charges imposed herein are properly collected and transmitted to the department.

5. Effective October 1, 1990, any person who operates a transfer station in Missouri shall transmit a fee to the department for deposit in the solid waste management fund which is equal to one dollar and fifty cents per ton or its volumetric equivalent of solid waste accepted. Such fee shall be applicable to all solid waste to be transported out of the state for disposal. On October 1, 1992, and thereafter, the charge imposed herein shall be adjusted annually by the same percentage as the increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency. No annual

adjustment shall be made to the charge imposed under this subsection during October 1, 2005, to October 1, [2017] **2027**, except an adjustment amount consistent with the need to fund the operating costs of the department and taking into account any annual percentage increase in the total of the volumetric equivalent of solid waste accepted in the prior year at solid waste sanitary landfills and demolition landfills and solid waste to be transported out of this state for disposal that is accepted at transfer stations. No annual increase during October 1, 2005, to October 1, [2017] **2027**, shall exceed the percentage increase measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially recorded by the United States Department of Labor or its successor agency and calculated on the percentage of revenues dedicated under subdivision (1) of subsection 2 of section 260.335. Any such annual adjustment shall only be made at the discretion of the director, subject to appropriations. The department shall prescribe rules and regulations governing the transmittal of fees and verification of waste volumes transported out of state from transfer stations. Collection costs shall also be established by the department and shall not exceed two percent of the amount collected pursuant to this subsection. A transfer station with the sole function of separating materials for recycling or resource recovery activities shall not be subject to the fee imposed in this subsection.

6. Each political subdivision which owns an operational solid waste disposal area may designate, pursuant to this section, up to two free disposal days during each calendar year. On any such free disposal day, the political subdivision shall allow residents of the political subdivision to dispose of any solid waste which may be lawfully disposed of at such solid waste disposal area free of any charge, and such waste shall not be subject to any state fee pursuant to this section. Notice of any free disposal day shall be posted at the solid waste disposal area site and in at least one newspaper of general circulation in the political subdivision no later than fourteen days prior to the free disposal day.

260.335. DISTRIBUTION OF FUND MONEYS, USES—GRANTS, DISTRIBUTION OF MONEYS—ADVISORY BOARD, SOLID WASTE, DUTIES. — 1. Each fiscal year eight hundred thousand dollars from the solid waste management fund shall be made available, upon appropriation, to the department and the environmental improvement and energy resources authority to fund activities that promote the development and maintenance of markets for recovered materials. Each fiscal year up to two hundred thousand dollars from the solid waste management fund **may** be used by the department upon appropriation for grants to solid waste management districts for district grants and district operations. Only those solid waste management districts that are allocated fewer funds under subsection 2 of this section than if revenues had been allocated based on the criteria in effect in this section on August 27, 2004, are eligible for these grants. An eligible district shall receive a proportionate share of these grants based on that district's share of the total reduction in funds for eligible districts calculated by comparing the amount of funds allocated under subsection 2 of this section with the amount of funds that would have been allocated using the criteria in effect in this section on August 27, 2004. The department and the authority shall establish a joint interagency agreement with the department of economic development to identify state priorities for market development and to develop the criteria to be used to judge proposed projects. Additional moneys may be appropriated in subsequent fiscal years if requested. The authority shall establish a procedure to measure the effectiveness of the grant program under this subsection and shall provide a report to the governor and general assembly by January fifteenth of each year regarding the effectiveness of the program.

2. All remaining revenues deposited into the fund each fiscal year after moneys have been made available under subsection 1 of this section shall be allocated as follows:

(1) Thirty-nine percent of the revenues shall be dedicated, upon appropriation, to the elimination of illegal solid waste disposal, to identify and prosecute persons disposing of solid waste illegally, to conduct solid waste permitting activities, to administer grants and perform other duties imposed in sections 260.200 to 260.345 and section 260.432. In addition to the

thirty-nine percent of the revenues, the department may receive any annual increase in the charge during October 1, 2005, to October 1, [2014] **2027**, under section 260.330 and such increases shall be used solely to fund the operating costs of the department;

(2) Sixty-one percent of the revenues, except any annual increases in the charge under section 260.330 during October 1, 2005, to October 1, [2014] **2027**, which shall be used solely to fund the operating costs of the department, shall be allocated [through grants, upon appropriation, to participating cities, counties, and] **to solid waste management districts**. Revenues to be allocated under this subdivision shall be divided as follows: forty percent shall be allocated based on the population of each district in the latest decennial census, and sixty percent shall be allocated based on the amount of revenue generated within each district. For the purposes of this subdivision, revenue generated within each district shall be determined from the previous year's data. No more than fifty percent of the revenue allocable under this subdivision may be allocated to the districts upon approval of the department for implementation of a solid waste management plan and district operations, and at least fifty percent of the revenue allocable to the districts under this subdivision shall be allocated to the cities and counties of the district or to persons or entities providing solid waste management, waste reduction, recycling and related services in these cities and counties. Each district shall receive a minimum of seventy-five thousand dollars under this subdivision. After August 28, [2005] **2015**, each district shall receive a minimum of ninety-five thousand dollars under this subdivision for district grants and district operations. Each district receiving moneys under this subdivision shall expend such moneys pursuant to a solid waste management plan required under section 260.325, and only in the case that the district is in compliance with planning requirements established by the department. Moneys shall be awarded based upon grant applications. **The following criteria may be considered to establish the order of district grant priority:**

(a) **Grants to facilities of organizations employing individuals with disabilities under sections 178.900 to 178.960 or sections 205.968 to 205.972;**

(b) **Grants for proposals that will promote and maximize the sharing of district resources;**

(c) **Grants for proposals which provide methods of recycling and solid waste reduction; and**

(d) **All other grants.**

Any **allocated district** moneys remaining in any fiscal year due to insufficient or inadequate grant applications [may] **shall** be reallocated [pursuant to this subdivision] **for grant applications in subsequent years or for solid waste management projects other than district operations, including a district's next request for solid waste management project proposals. Any allocated district moneys remaining after a period of five years shall revert to the credit of the solid waste management fund created under section 260.330;**

(3) Except for the amount up to one-fourth of the department's previous fiscal year expense, any remaining unencumbered funds generated under subdivision (1) of this subsection in prior fiscal years shall be reallocated under this section;

(4) Funds may be made available under this subsection for the administration and grants of the used motor oil program described in section 260.253;

(5) The department and the environmental improvement and energy resources authority shall conduct sample audits of grants provided under this subsection.

3. **In addition to the criteria listed in this section**, the advisory board created in section 260.345 shall recommend criteria to be used to allocate grant moneys to districts, cities and counties. These criteria shall establish a priority for proposals which provide methods of solid waste reduction and recycling. The department shall promulgate criteria for evaluating grants by rule and regulation. Projects of cities and counties located within a district which are funded by grants under this section shall conform to the district solid waste management plan.

4. The funds awarded to the districts[, counties and cities] pursuant to this section shall be used for the purposes set forth in sections 260.300 to 260.345, and shall be used in addition to existing funds appropriated by counties and cities for solid waste management and shall not supplant county or city appropriated funds.

5. **Once grants are approved by the solid waste management district, the district shall submit to the department the appropriate forms associated with the grant application and any supporting information to verify that appropriate public notice procedures were followed, that grant proposals were reviewed and ranked by the district, and that only eligible costs as set forth in regulations are to be funded. Within thirty days, the department shall review the grant application. If the department finds any deficiencies, or needs more information in order to evaluate the grant application, the department shall notify the district in writing. The district shall have an additional thirty days to respond to the department's request and to submit any additional information to the department. Within thirty days of receiving additional information, the department shall either approve or deny the grant application. If the department takes no action, the grant application shall be deemed approved.** The department, in conjunction with the solid waste advisory board, shall review the performance of all grant recipients to ensure that grant moneys were appropriately and effectively expended to further the purposes of the grant, as expressed in the recipient's grant application. The grant application shall contain specific goals and implementation dates, and grant recipients shall be contractually obligated to fulfill same. The department may require the recipient to submit periodic reports and such other data as are necessary, both during the grant period and up to five years thereafter, to ensure compliance with this section. The department may audit the records of any recipient to ensure compliance with this section. Recipients of grants under sections 260.300 to 260.345 shall maintain such records as required by the department. If a grant recipient fails to maintain records or submit reports as required herein, refuses the department access to the records, or fails to meet the department's performance standards, the department may withhold subsequent grant payments, if any, and may compel the repayment of funds provided to the recipient pursuant to a grant.

6. The department shall provide for a security interest in any machinery or equipment purchased through grant moneys distributed pursuant to this section.

7. If the moneys are not transmitted to the department within the time frame established by the rule promulgated, interest shall be imposed on the moneys due the department at the rate of ten percent per annum from the prescribed due date until payment is actually made. These interest amounts shall be deposited to the credit of the solid waste management fund.

260.345. SOLID WASTE ADVISORY BOARD, MEMBERS — QUALIFICATIONS — DUTIES AND POWERS — REMOVAL OF BOARD MEMBER FOR FAILURE TO ATTEND MEETINGS, WHEN — REPORT — MEETINGS. — 1. A state "Solid Waste Advisory Board" is created within the department of natural resources. The advisory board shall be composed of the chairman of the executive board of each of the solid waste management districts **or his or her designee**, and other members as provided in this section. Up to five additional members shall be appointed by the **program director of the solid waste management program** of which two members shall represent the solid waste management industry and have an economic interest in or activity with any solid waste facility or operation, one member may represent the solid waste composting or recycling industry businesses, and the remaining members shall be public members who have demonstrated interest in solid waste management issues and shall have no economic interest in or activity with any solid waste facility or operation but may own stock in a publicly traded corporation which may be involved in waste management as long as such holdings are not substantial. **Beginning January 1, 2016, the advisory board shall [advise] prepare an annual report due on or before January first advising the department regarding:**

- (1) The efficacy of its technical assistance program;
- (2) Solid waste management problems experienced by solid waste management districts;

- (3) The effects of proposed rules and regulations upon solid waste management within the districts;
- (4) Criteria to be used in awarding grants pursuant to section 260.335;
- (5) Waste management issues pertinent to the districts;
- (6) The development of improved methods of solid waste minimization, recycling and resource recovery; [and]
- (7) **Unfunded solid waste management projects; and**
- (8) Such other matters as the advisory board may determine.

2. The advisory board shall also prepare a report on the subjects listed in subdivisions (1) to (8) of subsection 1 of this section for any standing, statutory, interim, or select committee or task force of the general assembly having jurisdiction over solid waste. If a report is so prepared, it shall be delivered to the chair and vice-chair of each committee or task force having such jurisdiction. Such a report shall not be generated and distributed on more than an annual basis.

3. The advisory board shall hold regular meetings on a quarterly basis. A special meeting of the advisory board may occur upon a majority vote of all advisory board members at a regular quarterly meeting. Reasonable written notice of all meetings shall be given by the director of the solid waste management program to all members of the advisory board. A majority of advisory board members shall constitute a quorum for the transaction of business. All actions of the advisory board shall be taken at regular quarterly meetings open to the public.

260.395. TRANSPORTATION OF HAZARDOUS WASTE, HOW PERMITTED — FEES, HOW DETERMINED — NOTICE PRIOR TO ISSUANCE OF PERMIT — PERMIT NOT REQUIRED OF WHOM — APPLICATION FOR CERTIFICATION, WHEN — PERMIT MAINTAINED FOR POSTCLOSURE CARE PERIOD — LEACHATE COLLECTION SYSTEM REQUIRED — RAILROAD HAZARDOUS WASTE TRANSPORTATION, FEE. — 1. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, it shall be unlawful for any person to transport any hazardous waste in this state without first obtaining a hazardous waste transporter license. Any person transporting hazardous waste in this state shall file an application for a license pursuant to this subsection which shall:

(1) Be submitted on a form provided for this purpose by the department and shall furnish the department with such equipment identification and data as may be necessary to demonstrate to the satisfaction of the department that equipment engaged in such transportation of hazardous waste, and other equipment as designated in rules and regulations pursuant to sections 260.350 to 260.430, is adequate to provide protection of the health of humans and the environment and to comply with the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430. If approved by the department, this demonstration of protection may be satisfied by providing certification that the equipment so identified meets and will be operated in accordance with the rules and regulations of the Missouri public service commission and the federal Department of Transportation for the transportation of the types of hazardous materials for which it will be used;

(2) Include, as specified by rules and regulations, demonstration of financial responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof which shall be related to the number of units, types and sizes of equipment to be used in the transport of hazardous waste by the applicant;

(3) Include, as specified in rules and regulations, a fee payable to the state of Missouri which shall consist of an annual application fee, plus an annual use fee based upon tonnage, mileage or a combination of tonnage and mileage. The fees established pursuant to this subdivision shall be set to generate, as nearly as is practicable, six hundred thousand dollars annually. No fee shall be collected pursuant to this subdivision from railroads that pay a fee

pursuant to subsection 18 of this section. Fees collected pursuant to this subdivision shall be deposited in the hazardous waste fund created pursuant to section 260.391.

2. If the department determines the application conforms to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste transporter license with such terms and conditions as it deems necessary to protect the health of humans and the environment. The department shall act within ninety days after receipt of the application. If the department denies the license, it shall issue a report to the applicant stating the reason for denial of the license.

3. A license may be suspended or revoked whenever the department determines that the equipment is or has been operated in violation of any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order, or license term or condition adopted or issued pursuant to sections 260.350 to 260.430, poses a threat to the health of humans or the environment, or is creating a public nuisance.

4. Whenever a license is issued, renewed, denied, suspended or revoked by the department, any aggrieved person, by petition filed with the [department] **administrative hearing commission** within thirty days of the decision, may appeal such decision [and shall be entitled to a hearing as provided in section 260.400] **as provided by sections 621.250 and 640.013. Once the administrative hearing commission has reviewed the appeal, the administrative hearing commission shall issue a recommended decision to the commission on license issuance, renewal, denial, suspension, or revocation. The commission shall issue its own decision, based on the appeal, for license issuance, renewal, denial, suspension, or revocation. If the commission changes a finding of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates the decision recommended by the administrative hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536. No judicial review shall be available until and unless all administrative remedies are exhausted.**

5. A license shall be issued for a period of one year and shall be renewed upon proper application by the holder and a determination by the department that the applicant is in compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and regulations, orders and license terms and conditions adopted or issued pursuant to sections 260.350 to 260.430.

6. A license is not required for the transport of any hazardous waste on the premises where it is generated or onto contiguous property owned by the generator thereof, or for those persons exempted in section 260.380. Nothing in this subsection shall be interpreted to preclude the department from inspecting unlicensed hazardous waste transporting equipment and to require that it be adequate to provide protection for the health of humans and the environment.

7. After six months from the effective date of the standards, rules and regulations adopted by the commission pursuant to section 260.370, it shall be unlawful for any person to construct, substantially alter or operate, including operations specified in the rules and regulations, a hazardous waste facility without first obtaining a hazardous waste facility permit for such construction, alteration or operation from the department. Such person must submit to the department at least ninety days prior to submitting a permit application a letter of intent to construct, substantially alter or operate any hazardous waste disposal facility. The person must file an application within one hundred eighty days of the filing of a letter of intent unless granted an extension by the commission. The department shall publish such letter of intent as specified in section 493.050 within ten days of receipt of such letter. The letter shall be published once each week for four weeks in the county where the hazardous waste disposal facility is proposed. Once such letter is submitted, all conditions for the permit application evaluation purposes in existence as of the date of submission shall be deemed frozen, in that no subsequent action by

any person to change such conditions in an attempt to thwart a fair and impartial decision on the application for a permit shall be allowed as grounds for denial of the permit. Any person before constructing, substantially altering or operating a hazardous waste facility in this state shall file an application for a permit which shall:

(1) Be submitted on a form provided for this purpose by the department and shall furnish the department with plans, specifications and such other data as may be necessary to demonstrate to the satisfaction of the department that such facility does or will provide adequate protection of the health of humans and the environment and does or will comply with the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430;

(2) Include plans, designs, engineering reports and relevant data for construction, alteration or operation of a hazardous waste facility, to be submitted to the department by a registered professional engineer licensed by this state;

(3) Include, as specified by rules and regulations, demonstration of financial responsibility, including, but not limited to, guarantees, liability insurance, posting of bond or any combination thereof, which shall be related to type and size of facility;

(4) Include such environmental and geologic information, assessments and studies as required by the rules and regulations of the commission;

(5) Include a fee payable to the state of Missouri which shall not exceed one thousand dollars, which shall cover the first year of the permit, if issued, but which is not refundable. If the permit is issued for more than one year, a fee equal in amount to the first year's fee shall be paid to the state of Missouri prior to issuance of the permit for each year the permit is to be in effect beyond the first year;

(6) The department shall supervise any field work undertaken to collect geologic and engineering data for submission with the application. The state geologist and departmental engineers shall review the geologic and engineering plans, respectively, and attest to their accuracy and adequacy. The applicant shall pay all reasonable costs, as determined by the commission, incurred by the department pursuant to this subsection.

8. (1) Prior to issuing or renewing a hazardous waste facility permit, the department shall issue public notice by press release or advertisement and shall notify all record owners of adjoining property by mail directed to the last known address, and the village, town or city, if any, and the county in which the hazardous waste facility is located; and, upon request, shall hold a public hearing after public notice as required in this subsection at a location convenient to the area affected by the issuance of the permit.

(2) Prior to issuing or renewing a hazardous waste disposal facility permit the department shall issue public notice by press release and advertisement and shall notify all record owners of property, within one mile of the outer boundaries of the site, by mail directed to the last known address; and shall hold a public hearing after public notice as required in this subsection at a location convenient to the area affected by the issuance of the permit.

9. If the department determines that the application conforms to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430, it shall issue the hazardous waste facility permit, with such terms and conditions and require such testing and construction supervision as it deems necessary to protect the health of humans or the environment. The department shall act within one hundred and eighty days after receipt of the application. If the department denies the permit, it shall issue a report to the applicant stating the reason for denial of a permit.

10. A permit may be suspended or revoked whenever the department determines that the hazardous waste facility is, or has been, operated in violation of any provision of sections 260.350 to 260.430 or any standard, rule or regulation, order or permit term or condition adopted or issued pursuant to sections 260.350 to 260.430, poses a threat to the health of humans or the environment or is creating a public nuisance.

11. Whenever a permit is issued, renewed, denied, suspended or revoked by the department, any aggrieved person, by petition filed with the [department] **administrative hearing commission** within thirty days of the decision, may appeal such decision [and shall be entitled to a hearing as provided in section 260.400] **as provided by sections 621.250 and 640.013. Once the administrative hearing commission has reviewed the appeal, the administrative hearing commission shall issue a recommended decision to the commission on permit issuance, renewal, denial, suspension, or revocation. The commission shall issue its own decision, based on the appeal, for permit issuance, renewal, denial, suspension, or revocation. If the commission changes a finding of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates the decision recommended by the administrative hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the hazardous waste facility is to be located or is located, shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.**

12. A permit shall be issued for a fixed term, which shall not exceed ten years in the case of any land disposal facility, storage facility, incinerator, or other treatment facility. Nothing in this subsection shall preclude the department from reviewing and modifying a permit at any time during its term. Review of any application for a permit renewal shall consider improvements in the state of control and measurement technology as well as changes in applicable regulations. Each permit issued pursuant to this section shall contain such terms and conditions as the department determines necessary to protect human health and the environment, and upon proper application by the holder and a determination by the department that the applicant is in compliance with all provisions of sections 260.350 to 260.430 and all standards, rules and regulations, orders and permit terms and conditions adopted or issued pursuant to sections 260.350 to 260.430.

13. A hazardous waste facility permit is not required for:

(1) On-site storage of hazardous wastes where such storage is exempted by the commission by rule or regulation; however, such storage must conform to the provisions of any federal hazardous waste management act and sections 260.350 to 260.430 and the applicable standards, rules and regulations adopted pursuant to sections 260.350 to 260.430 and any other applicable hazardous materials storage and spill-prevention requirements provided by law;

(2) A publicly owned treatment works which has an operating permit pursuant to section 644.051 and is in compliance with that permit;

(3) A resource recovery facility which the department certifies uses hazardous waste as a supplement to, or substitute for, nonwaste material, and that the sole purpose of the facility is manufacture of a product rather than treatment or disposal of hazardous wastes;

(4) That portion of a facility engaged in hazardous waste resource recovery, when the facility is engaged in both resource recovery and hazardous waste treatment or disposal, provided the owner or operator can demonstrate to the department's satisfaction and the department finds that such portion is not intended and is not used for hazardous waste treatment or disposal.

14. Facilities exempted pursuant to subsection 13 of this section must comply with the provisions of subdivisions (3) to (7) of section 260.390 and such other requirements, to be specified by rules and regulations, as are necessary to comply with any federal hazardous waste management act or regulations hereunder. Generators who use such an exempted facility shall keep records of hazardous wastes transported, except by legal flow through sewer lines, to the facility and submit such records to the department in accordance with the provisions of section 260.380 and the standards, rules and regulations adopted pursuant to sections 260.350 to 260.430. Any person, before constructing, altering or operating a resource recovery facility in this state shall file an application for a certification. Such application shall include:

(1) Plans, designs, engineering reports and other relevant information as specified by rule that demonstrate that the facility is designed and will operate in a manner protective of human health and the environment; and

(2) An application fee of not more than five hundred dollars for a facility that recovers waste generated at the same facility or an application fee of not more than one thousand dollars for a facility that recovers waste generated at off-site sources. Such fees shall be deposited in the hazardous waste fund created in section 260.391. The department shall review such application for conformance with applicable laws, rules and standard engineering principles and practices. The applicant shall pay to the department all reasonable costs, as determined by the commission, incurred by the department pursuant to this subsection. All such funds shall be deposited in the hazardous waste fund created in section 260.391.

15. The owner or operator of any hazardous waste facility in existence on September 28, 1977, who has achieved federal interim status pursuant to 42 U.S.C. 6925(e), and who has submitted to the department Part A of the federal facility permit application, may continue to receive and manage hazardous wastes in the manner as specified in the Part A application, and in accordance with federal interim status requirements, until completion of the administrative disposition of a permit application submitted pursuant to sections 260.350 to 260.430. The department may at any time require submission of, or the owner or operator may at any time voluntarily submit, a complete application for a permit pursuant to sections 260.350 to 260.430 and commission regulations. The authority to operate pursuant to this subsection shall cease one hundred eighty days after the department has notified an owner or operator that an application for permit pursuant to sections 260.350 to 260.430 must be submitted, unless within such time the owner or operator submits a completed application therefor. Upon submission of a complete application, the authority to operate pursuant to this subsection shall continue for such reasonable time as is required to complete the administrative disposition of the permit application. If a facility loses its federal interim status, or the Environmental Protection Agency requires the owner or operator to submit Part B of the federal application, the department shall notify the owner or operator that an application for a permit must be submitted pursuant to this subsection. In addition to compliance with the federal interim status requirements, the commission shall have the authority to adopt regulations requiring persons operating pursuant to this subsection to meet additional state interim status requirements.

16. No person, otherwise qualified pursuant to sections 260.350 to 260.430 for a license to transport hazardous wastes or for a permit to construct, substantially alter or operate a hazardous waste facility, shall be denied such license or permit on the basis of a lack of need for such transport service or such facility because of the existence of other services or facilities capable of meeting that need; except that permits for hazardous waste facilities may be denied on determination made by the department that the financial resources of the persons applying are such that the continued operation of the sites in accordance with sections 260.350 to 260.430 cannot be reasonably assured or on determination made by the department that the probable volume of business is insufficient to ensure and maintain the solvency of then existing permitted hazardous waste facilities.

17. All hazardous waste landfills constructed after October 31, 1980, shall have a leachate collection system. The rules and regulations of the commission shall treat and protect all aquifers to the same level of protection. The provisions of this subsection shall not apply to the disposal of tailings and slag resulting from mining, milling and primary smelting operations.

18. Any railroad corporation as defined in section 388.010 that transports any hazardous waste as defined in section 260.360 or any hazardous substance as defined in section 260.500 shall pay an annual fee of three hundred fifty dollars. Fees collected pursuant to this subsection shall be deposited in the hazardous waste fund created in section 260.391.

260.500. DEFINITIONS. — As used in sections 260.500 to 260.550, unless the context clearly indicates otherwise, the following terms mean:

(1) "Cleanup", all actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove, or dispose of a hazardous substance;

(2) "Cleanup costs", all costs incurred by the state or any of its political subdivisions, or their agents, or by any other person participating with the approval of the department of natural resources in the prevention or mitigation of damages from a hazardous substance emergency or the cleanup of a hazardous substance involved in a hazardous substance emergency, including a proportionate share of those costs necessary to maintain the services authorized in sections 260.500 to 260.550;

(3) "Department", the department of natural resources;

(4) "Director", the director of the department of natural resources;

(5) "Hazardous substance", any substance or mixture of substances that presents a danger to the public health or safety or the environment and includes:

(a) Any hazardous waste identified or listed by the department pursuant to sections 260.350 to 260.430;

(b) Any element, compound, mixture, solution, or substance designated pursuant to Sections 101(14) and 102 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and Section 302 of the Superfund Amendments and Reauthorization Act of 1986, as amended; and

(c) Any hazardous material designated by the Secretary of the United States Department of Transportation pursuant to the Hazardous Materials Transportation Act;

(d) "Hazardous substances" does not include radioactive materials, wastes, emissions or discharges that are licensed or regulated by laws of the federal government or of this state. However, such material released due to a transportation accident shall be considered a hazardous substance;

(6) "Hazardous substance emergency":

(a) Any release of hazardous substances in quantities equal to or in excess of those determined pursuant to Section 101(14) or 102 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, and Section 304 of the Superfund Amendments and Reauthorization Act of 1986, as amended;

(b) Any release of petroleum including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas) in excess of fifty gallons for liquids or three hundred cubic feet for gases, except that the notification and reporting of any release of natural gas or natural gas mixtures by or from intrastate facilities, regardless of the quantity of such release, shall be as specified by the public service commission rather than pursuant to the notification and reporting requirements contained in, or authorized by, sections 260.500 to 260.550. Interstate natural gas pipeline facilities shall report natural gas releases to the state and the National Response Center in accordance with federal Department of Transportation regulatory requirements;

(c) Any release of a hazardous waste which is reportable pursuant to sections 260.350 to 260.430;

(d) Any release of a hazardous substance which requires immediate notice pursuant to Part 171 of Title 49 of the Code of Federal Regulations;

(e) The department may promulgate rules and regulations identifying the substances and the quantities thereof which, if released, constitute a hazardous substance emergency;

(7) "Person", any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;

(8) "Person having control over a hazardous substance", any person producing, handling, storing, transporting, refining, or disposing of a hazardous substance when a hazardous substance emergency occurs, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous substance emergency occurs, whether they own the hazardous

substance or are operating under a lease, contract, or other agreement with the legal owner thereof;

(9) "Release", any threatened or real emission, discharge, spillage, leakage, pumping, pouring, emptying or dumping of a substance into or onto the land, air or waters of the state unless done in compliance with the conditions of a federal or state permit, unless the substance is confined and is expected to stay confined to property owned, leased or otherwise controlled by the person having control over the substance, or unless, in the case of pesticides, if application is done in accordance with the product label;

(10) "State of Missouri basic emergency operations plan", the state plan, its annexes, and appendices as developed or maintained by the state emergency management agency for response to natural and man-made disasters in this state;

(11) "Waters of the state", **all waters within the jurisdiction of this state, including** all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common [and includes waters of the United States lying within the state].

444.600. PERMIT—INVESTIGATION, DECISION, HEARING, COURT REVIEW—APPEALS.

— 1. All applications for a permit shall be filed with the director who shall promptly investigate the application and make a [recommendation to the commission] **decision** within thirty days after the application is received as to whether the permit should be issued or denied. If the director is not satisfied with the information supplied by the applicant, he **or she** shall recommend denial of the permit. The director shall promptly notify the applicant of this action and at the same time publish a notice of the [recommendation] **decision** in any newspaper with general circulation in the counties where the land is located, and shall send notice to those persons registered with the director pursuant to section 444.720. **The director's decision shall be deemed to be the decision of the director of the department of natural resources and shall be subject to appeal to the administrative hearing commission as provided by sections 621.250 and 640.013.**

2. [If the recommendation of the director is to deny the permit, a hearing as provided in sections 444.500 to 444.755 shall be held by the commission if requested by the applicant within thirty days of the date of notice of the recommendation of the director.

3. If the recommendation of the director is for issuance of the permit, the commission may issue or deny the permit without a hearing provided the matter is passed upon at a public meeting no sooner than thirty days from the date of notice of the recommendation of the director, except that upon petition of any person aggrieved by the granting of the permit, a hearing shall be held as provided in section 444.680.

4. If the commission denies a permit, the applicant may petition the commission, within thirty days of notice of its action, for a hearing. If no petition is filed within the thirty day period, the decision of the commission is final and the applicant shall have no right of court review.

5. In any hearing held pursuant to this section the burden of proof shall be on the applicant for a permit. Any decision of the commission made pursuant to a hearing held under this section is subject to judicial review as provided in section 444.700.] **Whenever a strip mine operator permit provided under section 444.540 is issued, denied, suspended, or revoked by the department of natural resources, any aggrieved person, by petition filed with the administrative hearing commission within thirty days of the decision, may appeal such decision as provided by sections 621.250 and 640.013. For purposes of an appeal, the administrative hearing commission may consider, based on competent and substantial scientific evidence on the record, whether an interested party's health, safety, or livelihood will be unduly impaired by the issuance, denial, suspension, or revocation of the permit. The administrative hearing commission may also consider, based on competent and substantial scientific evidence on the record, whether the operator has demonstrated,**

during the five-year period immediately preceding the date of the permit application, a pattern of noncompliance at other locations in Missouri that suggests a reasonable likelihood of future acts of noncompliance. In determining whether a reasonable likelihood of noncompliance will exist in the future, the administrative hearing commission may look to past acts of noncompliance in Missouri, but only to the extent they suggest a reasonable likelihood of future acts of noncompliance. Such past acts of noncompliance in Missouri, in and of themselves, are an insufficient basis to suggest a reasonable likelihood of future acts of noncompliance. In addition, such past acts shall not be used as a basis to suggest a reasonable likelihood of future acts of noncompliance unless the noncompliance has caused or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. If a hearing petitioner demonstrates or the administrative hearing commission finds either present acts of noncompliance or a reasonable likelihood that the permit seeker or the operations of associated persons or corporations in Missouri will be in noncompliance in the future, such a showing will satisfy the noncompliance requirement in this subsection. In addition, such basis must be developed by multiple noncompliances of any environmental law administered by the Missouri department of natural resources at any single facility in Missouri that resulted in harm to the environment or impaired the health, safety, or livelihood of persons outside the facility. For any permit seeker that has not been in business in Missouri for the past five years, the administrative hearing commission may review the record of noncompliance in any state where the applicant has conducted business during the past five years. Once the administrative hearing commission has reviewed the appeal, the administrative hearing commission shall issue a recommended decision to the commission on permit issuance, denial, suspension, or revocation. The commission shall issue its own decision, based on the appeal, for permit issuance, denial, suspension, or revocation. If the commission changes a finding of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates the decision recommended by the administrative hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the mine is located or is to be located shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.

444.773. DIRECTOR TO INVESTIGATE APPLICATIONS — DECISION TO ISSUE OR DENY — DENIAL OF PERMIT, APPEAL, PROCEDURE — COMMISSION TO ISSUE DECISION. — 1. All applications for a permit shall be filed with the director, who shall promptly investigate the application and make a decision within six weeks after completion of the process provided in subsection 10 of section 444.772 to issue or deny the permit. If the director determines that the application has not fully complied with the provisions of section 444.772 or any rule or regulation promulgated pursuant to that section, the director may seek additional information from the applicant before making a decision to issue or deny the permit. The director shall consider any public comments when making the decision to issue or deny the permit. In issuing a permit, the director may impose reasonable conditions consistent with the provisions of sections 444.760 to 444.790.

[2.] The director's decision shall be deemed to be the decision of the director of the department of natural resources and shall be subject to appeal to the administrative hearing commission as provided by sections 640.013 and 621.250.

[3.] 2. Whenever a surface mining operation permit provided under section 444.772 is issued, denied, suspended, or revoked by the department of natural resources, any aggrieved person, by petition filed with the administrative hearing commission within thirty days of the decision, may appeal such decision as provided by sections 621.250 and 640.013. For purposes of an appeal, the administrative hearing commission may consider, based on competent and substantial scientific evidence on the record, whether an interested party's health, safety or livelihood will be unduly impaired by the issuance, **denial, suspension, or revocation** of the permit. The administrative hearing commission may also consider, based on competent and substantial scientific evidence on the record, whether the operator has demonstrated, during the five-year period immediately preceding the date of the permit application, a pattern of noncompliance at other locations in Missouri that suggests a reasonable likelihood of future acts of noncompliance. In determining whether a reasonable likelihood of noncompliance will exist in the future, the administrative hearing commission may look to past acts of noncompliance in Missouri, but only to the extent they suggest a reasonable likelihood of future acts of noncompliance. Such past acts of noncompliance in Missouri, in and of themselves, are an insufficient basis to suggest a reasonable likelihood of future acts of noncompliance. In addition, such past acts shall not be used as a basis to suggest a reasonable likelihood of future acts of noncompliance unless the noncompliance has caused or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. If a hearing petitioner **demonstrates** or the administrative hearing commission [demonstrates] **finds** either present acts of noncompliance or a reasonable likelihood that the permit seeker or the operations of associated persons or corporations in Missouri will be in noncompliance in the future, such a showing will satisfy the noncompliance requirement in this subsection. In addition, such basis must be developed by multiple noncompliances of any environmental law administered by the Missouri department of natural resources at any single facility in Missouri that resulted in harm to the environment or impaired the health, safety or livelihood of persons outside the facility. For any permit seeker that has not been in business in Missouri for the past five years, the administrative hearing commission may review the record of noncompliance in any state where the applicant has conducted business during the past five years. [Once] The administrative hearing commission [has reviewed the appeal, the administrative hearing commission] shall [make a recommendation] **issue a recommended decision** to the commission on permit issuance [or] , **denial, suspension, or revocation**.

[4.] The commission shall issue its own decision, based on the appeal, for permit issuance [or] **denial, suspension, or revocation**. If the commission changes a finding of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates the decision recommended by the administrative hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the mine **is located** or is to be located shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.

444.980. APPEAL OF PERMIT DECISION, PROCEDURE. — Whenever a surface coal mining operation permit provided under section 444.815 or a coal exploration operation permit provided under section 444.845 is issued, denied, suspended, or revoked by the department of natural resources, any aggrieved person, by petition filed with the administrative hearing commission within thirty days of the decision, may appeal such decision as provided by sections 621.250 and 640.013. For purposes of an appeal, the administrative hearing commission may consider, based on competent and substantial

scientific evidence on the record, whether an interested party's health, safety, or livelihood will be unduly impaired by the issuance, denial, suspension, or revocation of the permit. The administrative hearing commission may also consider, based on competent and substantial scientific evidence on the record, whether the operator has demonstrated, during the five-year period immediately preceding the date of the permit application, a pattern of noncompliance at other locations in Missouri that suggests a reasonable likelihood of future acts of noncompliance. In determining whether a reasonable likelihood of noncompliance will exist in the future, the administrative hearing commission may look to past acts of noncompliance in Missouri, but only to the extent they suggest a reasonable likelihood of future acts of noncompliance. Such past acts of noncompliance in Missouri, in and of themselves, are an insufficient basis to suggest a reasonable likelihood of future acts of noncompliance. In addition, such past acts shall not be used as a basis to suggest a reasonable likelihood of future acts of noncompliance unless the noncompliance has caused or has the potential to cause, a risk to human health or to the environment, or has caused or has potential to cause pollution, or was knowingly committed, or is defined by the United States Environmental Protection Agency as other than minor. If a hearing petitioner demonstrates or the administrative hearing commission finds either present acts of noncompliance or a reasonable likelihood that the permit seeker or the operations of associated persons or corporations in Missouri will be in noncompliance in the future, such a showing will satisfy the noncompliance requirement in this subsection. In addition, such basis must be developed by multiple noncompliances of any environmental law administered by the Missouri department of natural resources at any single facility in Missouri that resulted in harm to the environment or impaired the health, safety, or livelihood of persons outside the facility. For any permit seeker that has not been in business in Missouri for the past five years, the administrative hearing commission may review the record of noncompliance in any state where the applicant has conducted business during the past five years. Once the administrative hearing commission has reviewed the appeal, the administrative hearing commission shall issue a recommended decision to the commission on permit issuance, denial, suspension, or revocation. The commission shall issue its own decision, based on the appeal, for permit issuance, denial, suspension, or revocation. If the commission changes a finding of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates the decision recommended by the administrative hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the mine is located or is to be located shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.

621.250. APPEALS FROM DECISIONS OF CERTAIN ENVIRONMENTAL COMMISSIONS TO BE HEARD BY ADMINISTRATIVE HEARING COMMISSION — PROCEDURE. — 1. All authority to hear contested case administrative appeals granted in chapters 236, 256, 260, 444, 640, 643, and 644, and to the hazardous waste management commission in chapter 260, the [land reclamation] **Missouri mining** commission in chapter 444, the safe drinking water commission in chapter 640, the air conservation commission in chapter 643, and the clean water commission in chapter 644 shall be transferred to the administrative hearing commission under this chapter. The authority to render final decisions after hearing on appeals heard by the administrative hearing commission shall remain with the commissions listed in this subsection. For appeals pursuant to chapter 236, chapter 256, section 260.235, or section 260.249, the administrative hearing commission shall render a final decision rather than a recommended decision. The

administrative hearing commission may render its recommended or final decision after hearing or through stipulation, consent order, agreed settlement or by disposition in the nature of default judgment, judgment on the pleadings, or summary determination, consistent with the requirements of this subsection and the rules and procedures of the administrative hearing commission.

2. Except as otherwise provided by law, any person or entity who is a party to, or who is aggrieved or adversely affected by, any finding, order, decision, or assessment for which the authority to hear appeals was transferred to the administrative hearing commission in subsection 1 of this section may file a notice of appeal with the administrative hearing commission within thirty days after any such finding, order, decision, or assessment is placed in the United States mail or within thirty days of any such finding, order, decision, or assessment being delivered, whichever is earlier. Within ninety days after the date on which the notice of appeal is filed the administrative hearing commission may hold hearings, and within one hundred twenty days after the date on which the notice of appeal is filed shall make a recommended decision, or a final decision where applicable, in accordance with the requirements of this section and the rules and procedures of the administrative hearing commission; provided, however, that the dates by which the administrative hearing commission is required to hold hearings and make a recommended decision may be extended at the sole discretion of the permittee as either petitioner or intervenor in the appeal.

3. Any decision by the director of the department of natural resources that may be appealed as provided in subsection 1 of this section shall contain a notice of the right of appeal in substantially the following language: "If you were adversely affected by this decision, you may be entitled to pursue an appeal before the administrative hearing commission. To appeal, you must file a petition with the administrative hearing commission within thirty days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the administrative hearing commission.". Within fifteen days after the administrative hearing commission renders a recommended decision, it shall transmit the record and a transcript of the proceedings, together with the administrative hearing commission's recommended decision to the commission having authority to issue a final decision. The final decision of the commission shall be issued within one hundred eighty days of the date the notice of appeal in subsection 2 of this section is filed and shall be based only on the facts and evidence in the hearing record; provided, however, that the date by which the commission is required to issue a final decision may be extended at the sole discretion of the permittee as either petitioner or intervenor in the appeal. The commission may adopt the recommended decision as its final decision. The commission may change a finding of fact or conclusion of law made by the administrative hearing commission, or may vacate or modify the recommended decision issued by the administrative hearing commission, only if the commission states in writing the specific reason for a change made under this subsection.

4. In the event the person filing the appeal prevails in any dispute under this section, interest shall be allowed upon any amount found to have been wrongfully collected or erroneously paid at the rate established by the director of the department of revenue under section 32.065.

5. Appropriations shall be made from the respective funds of the department of natural resources to cover the administrative hearing commission's costs associated with these appeals.

6. In all matters heard by the administrative hearing commission under this section, the burden of proof shall comply with section 640.012. The hearings shall be conducted by the administrative hearing commission in accordance with the provisions of chapter 536 and its regulations promulgated thereunder.

7. No cause of action or appeal arising out of any finding, order, decision, or assessment of any of the commissions listed in subsection 1 of this section shall accrue in any court unless the party seeking to file such cause of action or appeal shall have filed a notice of appeal and received a final decision in accordance with the provisions of this section.

640.115. INFORMATION TO BE FURNISHED — APPROVAL OF SUPPLIES — SYSTEM CHANGES TO CONFORM TO RULES — PERMIT APPLICATIONS — APPEALS. — 1. Every municipal corporation, private corporation, company, partnership, federal establishment, state establishment or individual supplying or authorized to supply drinking water to the public within the state shall file with the department of natural resources a certified copy of the plans and surveys of the waterworks with a description of the methods of purification, treatment technology and source from which the supply of water is derived, and no source of supply shall be used without a written permit of approval issued to the continuing operating authority by the department of natural resources, or water dispensed to the public without first obtaining such written permit of approval. Prior to a change of permittee, the current permittee shall notify the department of the proposed change and the department shall perform a permit review.

2. Construction, extension or alteration of a public water system shall be in accordance with the rules and regulations of the safe drinking water commission.

3. Permit applicants shall show, as part of their application, that a permanent organization exists which will serve as the continuing operating authority for the management, operation, replacement, maintenance and modernization of the facility. Such continuing operating authority for all community water systems and nontransient, noncommunity water systems commencing operation after October 1, 1999, shall be required to have and maintain the managerial, technical and financial capacity, as determined by the department, to comply with sections 640.100 to 640.140.

4. Any community water system or nontransient, noncommunity water system against which an administrative order has been issued for significant noncompliance with the federal Safe Drinking Water Act, as amended, sections 640.100 to 640.140 or any rule or regulation promulgated thereunder shall be required to show that a permanent organization exists that serves as the continuing operating authority for the facility and that such continuing operating authority has the managerial, technical and financial capacity to comply with sections 640.100 to 640.140 and regulations promulgated thereunder. If the water system cannot show to the department's satisfaction that such continuing operating authority exists, or if the water system is not making substantial progress toward compliance, the water system's permit may be revoked. The continuing operating authority may [reapply for a permit in accordance with rules promulgated by the commission] **appeal such decision to the administrative hearing commission as provided by sections 621.250 and 640.013.**

5. Whenever a permit is issued, denied, suspended, or revoked by the department, any aggrieved person, by petition filed with the administrative hearing commission within thirty days of the decision, may appeal such decision as provided by sections 621.250 and 640.013. Once the administrative hearing commission has reviewed the appeal, the administrative hearing commission shall issue a recommended decision to the commission on permit issuance, denial, suspension, or revocation. The commission shall issue its own decision, based on the appeal, for permit issuance, denial, suspension, or revocation. If the commission changes a finding of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates the decision recommended by the administrative hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the waterworks is located, or is to be located, shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.

643.075. CONSTRUCTION WITHOUT PERMIT PROHIBITED — DENIAL, APPEAL, PROCEDURE — FEE, EXEMPTION — NATURAL RESOURCES PROTECTION FUND, AIR POLLUTION PERMIT FEE SUBACCOUNT — CITY OR COUNTY PERMIT GRANTED, EFFECT. —

1. It shall be unlawful for any person to commence construction of any air contaminant source in this state, without a permit [therefor], if such source is of a class fixed by regulation of the commission which requires a permit [therefor].

2. Every source required to obtain a construction permit shall make application [therefor] to the department [and shall submit therewith] **that includes** such plans and specifications as prescribed by rule. The director shall promptly investigate each application, and if he **or she** determines that the source meets and will meet the requirements of sections 643.010 to 643.190 and the rules promulgated pursuant thereto, he **or she** shall issue a construction permit with such conditions as he deems necessary to ensure that the source will meet the requirements of sections 643.010 to 643.190 and the rules. An application submitted for the construction or modification and operation of any regulated air contaminant source shall receive a unified construction and operating permit review process under section 643.078, unless the applicant requests in writing that the construction and operating permits be reviewed separately. If the director determines that the source does not meet or will not meet the requirements of sections 643.010 to 643.190 and the rules promulgated pursuant thereto, he **or she** shall deny the construction permit.

3. Before issuing a construction permit to build or modify an air contaminant source the director shall determine if the ambient air quality standards in the vicinity of the source are being exceeded and shall determine the impact on the ambient air quality standards from the source. The director, in order to effectuate the purposes of sections 643.010 to 643.190, may deny a construction permit if the source will appreciably affect the air quality or the air quality standards are being substantially exceeded.

4. The director may require the applicant as a condition to the issuance of the construction permit to provide and maintain such facilities or to conduct such tests as are necessary to determine the nature, extent, quantity or degree of air contaminants discharged into the ambient air from the proposed source.

5. The director shall act within thirty days after a request for approval of an application for a construction permit. The director shall render a decision to approve or deny a construction permit within ninety days of receipt of a complete application for a class B source and within one hundred eighty-four days of receipt of a complete application for a class A source. The director shall promptly notify the applicant in writing of his action and if the construction permit is denied state the reasons [therefor] **for such denial**.

6. **As provided by sections 621.250 and 640.013**, any aggrieved person may appeal any permit decision made under this section, including failure to render a decision within the time period established in this section. A notice of appeal shall be filed with the **administrative hearing** commission within thirty days of the director's action or within thirty days from the date by which the decision should have been rendered if the director has failed to act. **Once the administrative hearing commission has reviewed the appeal, the administrative hearing commission shall issue a recommended decision to the commission on permit issuance, renewal, denial, suspension, or revocation, or any condition of the permit. The commission shall issue its own decision, based on the appeal, for permit issuance, renewal, denial, suspension, or revocation, or any condition of the permit. If the commission changes a finding of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates the decision recommended by the administrative hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the air contaminant source is located or is to be located, shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.**

7. (1) There shall be a one hundred-dollar filing fee payable to the state of Missouri with each application before a construction permit shall be issued. No manufacturing or processing plant or operating location or other air contaminant source shall be required to pay more than one filing fee with a construction permit application. The provisions of this section shall not apply nor require the issuance of a permit wherein the proposed construction is that of a private residence.

(2) Upon completion of the department's evaluation of the application, but before receiving a construction permit, the applicant shall reimburse the department for all reasonable costs incurred by the department whether or not a construction permit is issued by the department or withdrawn by the applicant. If the department fails to approve or deny a construction permit within the time period specified in this section, the applicant shall not be required to reimburse the department for the review of the construction permit application. The commission shall, by rule, set the hourly charge, not to exceed the actual cost thereof and not to exceed fifty dollars per hour, for review of each construction permit application. The commission may exempt any person from payment of the hourly fees under this subdivision, or may reduce such fees, upon an appeal filed with the commission by such person stating that the fee will create an unreasonable economic hardship upon such person. The commission may conduct a closed meeting and have closed records, as defined in section 610.010, for the purpose of gathering information from the person filing an appeal for the exemption. Information obtained in this meeting may be held confidential by the commission upon the request of the person filing the appeal for exemption. If the fees or any portion of the fees imposed by this section are not paid within ninety days from the date of billing there shall be imposed interest upon the unpaid amount at the rate of ten percent per annum from the date of billing until payment is actually made. A construction permit application for a portable facility may include any site at which the portable facility is expected to be used; however, a separate site permit application shall be required when the portable facility is used or expected to be used at any site which is not included in a previously approved construction permit application. Upon receipt of the application, the applicant shall be notified by the department of hourly fees and requirements put forth in this subdivision.

(3) Applicants who withdraw their application before the department completes its evaluation shall reimburse the department for costs incurred in the evaluation.

(4) All moneys received pursuant to this section and section 643.073 and any other moneys so designated shall be placed in the state treasury and credited to the natural resources protection fund air pollution permit fee subaccount, created in section 640.220, and shall be expended for the administration of this section and sections 643.073 and 643.078 and for no other purpose, and shall be used to supplement state general revenue and federal funds appropriated to the department. After appropriation, the moneys received pursuant to this section and in such fund subaccount shall be expended for the administration of this section and for no other purpose. Any unexpended balance in such fund subaccount at the end of any appropriation period shall not be transferred to the general revenue fund of the state treasury and shall be exempt from the provisions of section 33.080. Any interest received on such deposits shall be credited to the fund subaccount.

8. Any person who obtains a valid permit from a city or county pursuant to the authority granted in section 643.140 shall be deemed to have met the requirements of this section and shall not be liable to the department for construction permit fees imposed pursuant to subsection 7 of this section.

643.078. OPERATION WITHOUT PERMIT PROHIBITED — SINGLE PERMIT FOR MULTIPLE SOURCES — INFORMATION TO BE SUBMITTED, TIME PERIOD — VALIDATION OF PERMIT, TERMS AND CONDITIONS — TIME PERIOD — DIRECTOR SHALL ENFORCE FEDERAL STANDARDS — APPEAL — CITY OR COUNTY PERMIT GRANTED, EFFECT. — 1. It shall be unlawful for any person to operate any regulated air contaminant source after August 28, 1992, without an operating permit except as otherwise provided in sections 643.010 to 643.190.

2. At the option of the permit applicant, a single operating permit shall be issued for a facility having multiple air contaminant sources located on one or more contiguous tracts of land, excluding public roads, highways and railroads, under the control of or owned by the permit holder and operated as a single enterprise.

3. Any person who wishes to construct or modify and operate any regulated air contaminant source shall submit an application to the department for the unified review of a construction permit application under section 643.075 and an operating permit application under this section, unless the applicant requests in writing that the construction and operating permit applications be reviewed separately. The director shall complete any unified review within one hundred and eighty days of receipt of the request for a class B source. For a class A source, the unified review shall be completed within the time period established in section 502 of the federal Clean Air Act, as amended, 42 U.S.C. 7661.

4. As soon as the review process is completed for the construction and operating permits and, if the applicant complies with all applicable requirements of sections 643.010 to 643.190 and all rules adopted thereunder, the construction permit shall be issued to the applicant. The operating permit shall be retained by the department until validated.

5. Within one hundred and eighty days of commencing operations, the holder of a construction permit shall submit to the director such information as is necessary to demonstrate compliance with the provisions of sections 643.010 to 643.190 and the terms and conditions of the construction permit. The operating permit retained by the department shall be validated and forwarded to the applicant if the applicant is in compliance with the terms and conditions of the construction permit and the terms and conditions of the operating permit. The holder of a construction permit may request a waiver of the one hundred and eighty day time period and the director may grant such request by mutual agreement.

6. If the director determines that an air contaminant source does not meet the terms and conditions of the construction permit and that the operation of the source will result in emissions which exceed the limits established in the construction permit, he shall not validate the operating permit. If the source corrects the deficiency, the director shall then validate the operating permit. If the source is unable to correct the deficiency, then the director and the applicant may, by mutual agreement, add such terms and conditions to the operating permit which are deemed appropriate, so long as the emissions from the air contaminant source do not exceed the limits established in the construction permit, and the director shall validate the operating permit. The director may add terms and conditions to the operating permit which allow the source to exceed the emission limits established in the construction permit. In such a case, the director shall notify the affected public and the commission shall, upon request by any affected person, hold a public hearing upon the revised operating permit application.

7. Except as provided in subsection 8 of this section, an operating permit shall be valid for five years from the date of issuance or validation, whichever is later, unless otherwise revoked or terminated pursuant to sections 643.010 to 643.190.

8. An applicant for a construction permit for an air contaminant source with valid operating permit may request that the air contaminant source be issued a new five-year operating permit. The operating permit would be issued in the manner and under the conditions provided in sections 643.010 to 643.190 and would supersede any existing operating permit for the source.

9. The director shall take action within thirty days after a request for validation of the operating permit and shall render a decision within one hundred twenty days of receipt of a request for issuance of an operating permit for a class B source. The director shall render a decision within the time period established in section 502 of the federal Clean Air Act, as amended, 42 U.S.C. 7661, for a class A source. Any affected person may appeal any permit decision, including failure to render a decision within the time period established in this section, to the **administrative hearing commission as provided by subsection 16 of this section, section 621.250, and section 640.013.**

10. The director may suspend, revoke or modify an operating permit for cause.

11. The director shall not approve an operating permit if he receives an objection to approval of the permit from the United States Environmental Protection Agency within the time period specified under Title V of the Clean Air Act, as amended, 42 U.S.C. 7661, et seq.

12. The director shall enforce all applicable federal rules, standards and requirements issued under the federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq., and shall incorporate such applicable standards and any limitations established pursuant to Title III into operating permits as required under Title V of the federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq.

13. Applicable standards promulgated by the commission by rule shall be incorporated by the director into the operating permit of any air contaminant source which has, on the effective date of the rule, at least three years remaining before renewal of its operating permit. If less than three years remain before renewal of the source's operating permit, such applicable standards shall be incorporated into the permit unless the permit contains a shield from such new requirements consistent with Title V of the federal Clean Air Act, as amended, 42 U.S.C. 7661, et seq.

14. The holder of a valid operating permit shall have operational flexibility to make changes to any air contaminant source, if the changes will not result in air contaminant emissions in excess of those established in the operating permit or result in the emissions of any air contaminant not previously emitted without obtaining a modification of the operating permit provided such changes are consistent with Section 502(b)(10) of the federal Clean Air Act, as amended, 42 U.S.C. 7661.

15. An air contaminant source with a valid operating permit which submits a complete application for a permit renewal at least six months prior to the expiration of the permit shall be deemed to have a valid operating permit until the director acts upon its permit application. The director shall promptly notify the applicant in writing of his action on the application and if the operating permit is not issued state the reasons therefor.

16. The applicant may appeal to the **administrative hearing** commission if [an] **a construction, modification, or** operating permit is not issued, **or renewed by the department,** or may appeal any condition, suspension, modification or revocation of any permit by filing [notice of appeal] **a petition** with the **administrative hearing** commission within thirty days of the notice of the director's response to the request for issuance of the **construction, modification, or** operating permit as **provided by sections 621.250 and 640.013.** **Once the administrative hearing commission has reviewed the appeal, the administrative hearing commission shall issue a recommended decision to the commission on the issuance, renewal, denial, suspension, modification, revocation, or any condition of the permit. The commission shall issue its own decision, based on the appeal, for the issuance, renewal, denial, suspension, modification, revocation, or any condition of the permit. If the commission changes a finding of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates the decision recommended by the administrative hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the air contaminant source is located or is to be located shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.**

17. Any person who obtains a valid operating permit from a city or county pursuant to the authority granted in section 643.140 shall be deemed to have met the requirements of this section.

643.650. SULFUR DIOXIDE, AMBIENT AIR QUALITY MONITORING OR MODELING NETWORK. — 1. Any owner of a coal-fired electric generating source in a National Ambient Air Quality Standards nonattainment area currently designated as of April 1,

2015, shall develop an ambient air quality monitoring or modeling network to characterize the sulfur dioxide air quality surrounding the electric generating source. The network shall adequately monitor the ambient air quality for sulfur dioxide surrounding the entire electric generating source and shall operate for not less than twelve consecutive quarters. The owner of such electric generating source shall notify the department of the manner in which it intends to characterize by either modeling or monitoring the air quality around such source. The location of any monitoring network installed by the owner of such electric generating source within a one-hour sulfur dioxide National Ambient Air Quality Standards nonattainment area shall be approved by the department.

2. Affected sources located in undesignated areas that elect to use monitoring to evaluate ambient air quality shall be consulted by the department on the use of existing monitors as well as the location of any new monitors intended to comprise the sulfur dioxide monitoring network. The department shall not submit its recommendation to the Environmental Protection Agency on the manner in which data will be gathered for the designation process that is inconsistent with the elections made by affected sources under this section. Where affected sources have elected to monitor under this section, the department shall submit recommendations for the designation process by the date set by a final, effective, and applicable Environmental Protection Agency requirement relating to state attainment designations and not prior.

3. The department shall consider all ambient air quality monitoring network data collected under subsection 1 of this section and under any agreement authorized under this subsection prior to proposing to the commission any sulfur dioxide limitation, emission reduction requirement, or other requirement for purposes of the one-hour sulfur dioxide National Ambient Air Quality Standard for any electric generating source that has elected to install a monitoring network under this section, except:

(1) The department may propose to the commission any sulfur dioxide limitations or emission reduction requirements specifically agreed to in any voluntary agreement entered into between the department and any owner of an electric generating source that has elected to install a monitoring network under this section; and

(2) The department may propose to the commission any adjustments to the sulfur dioxide limitations or emission reduction requirements applicable to any electric generating source located in a sulfur dioxide nonattainment area and subject to an agreement under subdivision (1) of this subsection, as justified by an ambient air quality analysis relying on no fewer than two quarters of monitored data collected through the monitoring network allowable under subsection 1 of this section and consistent with such agreement.

4. Nothing in this section shall prohibit the department from entering into an agreement with an owner of an electric generating source to limit or reduce sulfur dioxide emissions at such affected source that is below the source's permitted sulfur dioxide emission rate.

644.011. STATEMENT OF POLICY. — Whereas the pollution of the waters of this state constitutes a menace to public health and welfare, creates a public nuisance, is harmful to wildlife, fish and aquatic life and impairs domestic, agricultural, industrial, recreational and other legitimate uses of water, and whereas the problem of water pollution in this state is closely related to the problem of water pollution in adjoining states, and whereas this state must possess the authority required of states in the Federal Water Pollution Control Act as amended if it is to retain control of its water pollution control programs, it is hereby declared to be the public policy of this state to conserve the waters of the state and to protect, maintain, and improve the quality thereof for public water supplies and for domestic, agricultural, industrial, recreational and other legitimate beneficial uses and for the propagation of wildlife, fish and aquatic life; to provide that no waste be discharged into any waters of the state without first receiving the necessary treatment

or other corrective action to protect the legitimate beneficial uses of such waters and meet the requirements of the Federal Water Pollution Control Act as amended; to provide for the prevention, abatement and control of new or existing water pollution; and to cooperate with other agencies of the state, agencies of other states, the federal government and any other persons in carrying out these objectives. **It is also the policy of this state to strive to meet these objectives while maintaining maximum employment and full industrial development of the state. The commission shall seek the accomplishment of these objectives through the prevention, abatement, and control of water pollution by all practical and economically feasible methods.**

644.016. DEFINITIONS. — When used in sections 644.006 to 644.141 and in standards, rules and regulations promulgated pursuant to sections 644.006 to 644.141, the following words and phrases mean:

- (1) "Aquaculture facility", a hatchery, fish farm, or other facility used for the production of aquatic animals that is required to have a permit pursuant to the federal Clean Water Act, as amended, 33 U.S.C. 1251, et seq.;
 - (2) "Commission", the clean water commission of the state of Missouri created in section 644.021;
 - (3) "Conference, conciliation and persuasion", a process of verbal or written communications consisting of meetings, reports, correspondence or telephone conferences between authorized representatives of the department and the alleged violator. The process shall, at a minimum, consist of one offer to meet with the alleged violator tendered by the department. During any such meeting, the department and the alleged violator shall negotiate in good faith to eliminate the alleged violation and shall attempt to agree upon a plan to achieve compliance;
 - (4) "Department", the department of natural resources;
 - (5) "Director", the director of the department of natural resources;
 - (6) "Discharge", the causing or permitting of one or more water contaminants to enter the waters of the state;
 - (7) "Effluent control regulations", limitations on the discharge of water contaminants;
 - (8) "General permit", a permit written with a standard group of conditions and with applicability intended for a designated category of water contaminant sources that have the same or similar operations, discharges and geographical locations, and that require the same or similar monitoring, and that would be more appropriately controlled pursuant to a general permit rather than pursuant to a site-specific permit;
 - (9) "General permit template", a draft general permit that is being developed through a public participation process;
 - (10) "Human sewage", human excreta and wastewater, including bath and toilet waste, residential laundry waste, residential kitchen waste, and other similar waste from household or establishment appurtenances;
 - (11) "Income" includes retirement benefits, consultant fees, and stock dividends;
 - (12) "Minor violation", a violation which possesses a small potential to harm the environment or human health or cause pollution, was not knowingly committed, and is not defined by the United States Environmental Protection Agency as other than minor;
 - (13) "Permit by rule", a permit granted by rule, not by a paper certificate, and conditioned by the permit holder's compliance with commission rules;
 - (14) "Permit holders or applicants for a permit" shall not include officials or employees who work full time for any department or agency of the state of Missouri;
 - (15) "Person", any individual, partnership, copartnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department, or bureau of the state or federal government, or any other legal entity whatever which is recognized by law as the subject of rights and duties;
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(16) "Point source", any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. Point source does not include agricultural storm water discharges and return flows from irrigated agriculture;

(17) "Pollution", such contamination or other alteration of the physical, chemical or biological properties of any waters of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into any waters of the state as will or is reasonably certain to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, industrial, agricultural, recreational, or other legitimate beneficial uses, or to wild animals, birds, fish or other aquatic life;

(18) "Pretreatment regulations", limitations on the introduction of pollutants or water contaminants into publicly owned treatment works or facilities which the commission determines are not susceptible to treatment by such works or facilities or which would interfere with their operation, except that wastes as determined compatible for treatment pursuant to any federal water pollution control act or guidelines shall be limited or treated pursuant to this chapter only as required by such act or guidelines;

(19) "Residential housing development", any land which is divided or proposed to be divided into three or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan for residential housing;

(20) "Sewer system", pipelines or conduits, pumping stations, and force mains, and all other structures, devices, appurtenances and facilities used for collecting or conducting wastes to an ultimate point for treatment or handling;

(21) "Significant portion of his or her income" shall mean ten percent of gross personal income for a calendar year, except that it shall mean fifty percent of gross personal income for a calendar year if the recipient is over sixty years of age, and is receiving such portion pursuant to retirement, pension, or similar arrangement;

(22) "Site-specific permit", a permit written for discharges emitted from a single water contaminant source and containing specific conditions, monitoring requirements and effluent limits to control such discharges;

(23) "Treatment facilities", any method, process, or equipment which removes, reduces, or renders less obnoxious water contaminants released from any source;

(24) "Water contaminant", any particulate matter or solid matter or liquid or any gas or vapor or any combination thereof, or any temperature change which is in or enters any waters of the state either directly or indirectly by surface runoff, by sewer, by subsurface seepage or otherwise, which causes or would cause pollution upon entering waters of the state, or which violates or exceeds any of the standards, regulations or limitations set forth in sections 644.006 to 644.141 or any federal water pollution control act, or is included in the definition of pollutant in such federal act;

(25) "Water contaminant source", the point or points of discharge from a single tract of property on which is located any installation, operation or condition which includes any point source defined in sections 644.006 to 644.141 and nonpoint source pursuant to any federal water pollution control act, which causes or permits a water contaminant therefrom to enter waters of the state either directly or indirectly;

(26) "Water quality standards", specified concentrations and durations of water contaminants which reflect the relationship of the intensity and composition of water contaminants to potential undesirable effects;

(27) "Waters of the state", **all waters within the jurisdiction of this state, including** all rivers, streams, lakes and other bodies of surface and subsurface water lying within or forming a part of the boundaries of the state which are not entirely confined and located completely upon lands owned, leased or otherwise controlled by a single person or by two or more persons jointly or as tenants in common [and includes waters of the United States lying within the state].

644.051. PROHIBITED ACTS — PERMITS REQUIRED, WHEN, FEE — BOND REQUIRED OF PERMIT HOLDERS, WHEN — PERMIT APPLICATION PROCEDURES — RULEMAKING — LIMITATION ON USE OF PERMIT FEE MONEYS — PERMIT SHIELD PROVISIONS. — 1. It is unlawful for any person:

(1) To cause pollution of any waters of the state or to place or cause or permit to be placed any water contaminant in a location where it is reasonably certain to cause pollution of any waters of the state;

(2) To discharge any water contaminants into any waters of the state which reduce the quality of such waters below the water quality standards established by the commission;

(3) To violate any pretreatment and toxic material control regulations, or to discharge any water contaminants into any waters of the state which exceed effluent regulations or permit provisions as established by the commission or required by any federal water pollution control act;

(4) To discharge any radiological, chemical, or biological warfare agent or high-level radioactive waste into the waters of the state.

2. It shall be unlawful for any person to operate, use or maintain any water contaminant or point source in this state that is subject to standards, rules or regulations promulgated pursuant to the provisions of sections 644.006 to 644.141 unless such person holds an operating permit from the commission, subject to such exceptions as the commission may prescribe by rule or regulation. However, no operating permit shall be required of any person for any emission into publicly owned treatment facilities or into publicly owned sewer systems tributary to publicly owned treatment works.

3. It shall be unlawful for any person to construct, build, replace or make major modification to any point source or collection system that is principally designed to convey or discharge human sewage to waters of the state, unless such person obtains a construction permit from the commission, except as provided in this section. The following activities shall be excluded from construction permit requirements:

(1) Facilities greater than one million gallons per day that are authorized through a local supervised program, and are not receiving any department financial assistance;

(2) All sewer extensions or collection projects that are one thousand feet in length or less with fewer than two lift stations;

(3) All sewer collection projects that are authorized through a local supervised program; and

(4) Any other exclusions the commission may promulgate by rule.

A construction permit may be required by the department in the following circumstances:

(a) Substantial deviation from the commission's design standards;

(b) To address noncompliance;

(c) When an unauthorized discharge has occurred or has the potential to occur; or

(d) To correct a violation of water quality standards.

In addition, any point source that proposes to construct an earthen storage structure to hold, convey, contain, store or treat domestic, agricultural, or industrial process wastewater also shall be subject to the construction permit provisions of this subsection. All other construction-related activities at point sources shall be exempt from the construction permit requirements. All activities that are exempted from the construction permit requirement are subject to the following conditions:

a. Any point source system designed to hold, convey, contain, store or treat domestic, agricultural or industrial process wastewater shall be designed by a professional engineer registered in Missouri in accordance with the commission's design rules;

b. Such point source system shall be constructed in accordance with the registered professional engineer's design and plans; and

c. Such point source system may receive a post-construction site inspection by the department prior to receiving operating permit approval. A site inspection may be performed by the department, upon receipt of a complete operating permit application or submission of an engineer's statement of work complete.

A governmental unit may apply to the department for authorization to operate a local supervised program, and the department may authorize such a program. A local supervised program would recognize the governmental unit's engineering capacity and ability to conduct engineering work, supervise construction and maintain compliance with relevant operating permit requirements.

4. Before issuing any permit required by this section, the director shall issue such notices, conduct such hearings, and consider such factors, comments and recommendations as required by sections 644.006 to 644.141 or any federal water pollution control act. The director shall determine if any state or any provisions of any federal water pollution control act the state is required to enforce, any state or federal effluent limitations or regulations, water quality-related effluent limitations, national standards of performance, toxic and pretreatment standards, or water quality standards which apply to the source, or any such standards in the vicinity of the source, are being exceeded, and shall determine the impact on such water quality standards from the source. The director, in order to effectuate the purposes of sections 644.006 to 644.141, shall deny a permit if the source will violate any such acts, regulations, limitations or standards or will appreciably affect the water quality standards or the water quality standards are being substantially exceeded, unless the permit is issued with such conditions as to make the source comply with such requirements within an acceptable time schedule.

5. The director shall grant or deny the permit within sixty days after all requirements of the Federal Water Pollution Control Act concerning issuance of permits have been satisfied unless the application does not require any permit pursuant to any federal water pollution control act. The director or the commission may require the applicant to provide and maintain such facilities or to conduct such tests and monitor effluents as necessary to determine the nature, extent, quantity or degree of water contaminant discharged or released from the source, establish and maintain records and make reports regarding such determination.

6. The director shall promptly notify the applicant in writing of his or her action and if the permit is denied state the reasons [therefor] **for such denial. As provided by sections 621.250 and 640.013**, the applicant may appeal to the **administrative hearing** commission from the denial of a permit or from any condition in any permit by filing [notice of appeal] **a petition** with the **administrative hearing** commission within thirty days of the notice of denial or issuance of the permit. After a final action is taken on a new or reissued general permit, a potential applicant for the general permit who can demonstrate that he or she is or may be adversely affected by any permit term or condition may appeal the terms and conditions of the general permit within thirty days of the department's issuance of the general permit. In no event shall a permit constitute permission to violate the law or any standard, rule or regulation promulgated pursuant thereto. **Once the administrative hearing commission has reviewed the appeal, the administrative hearing commission shall issue a recommended decision to the commission on permit issuance, denial, or any condition of the permit. The commission shall issue its own decision, based on the appeal, for permit issuance, denial, or any condition of the permit. If the commission changes a finding of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates the decision recommended by the administrative hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the point source is to be located, shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.**

7. In any hearing held pursuant to this section that involves a permit, license, or registration, the burden of proof is on the party specified in section 640.012. Any decision of the commission made pursuant to a hearing held pursuant to this section is subject to judicial review as provided in section 644.071.

8. In any event, no permit issued pursuant to this section shall be issued if properly objected to by the federal government or any agency authorized to object pursuant to any federal water pollution control act unless the application does not require any permit pursuant to any federal water pollution control act.

9. Permits may be modified, reissued, or terminated at the request of the permittee. All requests shall be in writing and shall contain facts or reasons supporting the request.

10. No manufacturing or processing plant or operating location shall be required to pay more than one operating fee. Operating permits shall be issued for a period not to exceed five years after date of issuance, except that general permits shall be issued for a five-year period, and also except that neither a construction nor an annual permit shall be required for a single residence's waste treatment facilities. Applications for renewal of a site-specific operating permit shall be filed at least one hundred eighty days prior to the expiration of the existing permit. Applications seeking to renew coverage under a general permit shall be submitted at least thirty days prior to the expiration of the general permit, unless the permittee has been notified by the director that an earlier application must be made. General permits may be applied for and issued electronically once made available by the director.

11. Every permit issued to municipal or any publicly owned treatment works or facility shall require the permittee to provide the clean water commission with adequate notice of any substantial new introductions of water contaminants or pollutants into such works or facility from any source for which such notice is required by sections 644.006 to 644.141 or any federal water pollution control act. Such permit shall also require the permittee to notify the clean water commission of any substantial change in volume or character of water contaminants or pollutants being introduced into its treatment works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility by a source which was introducing water contaminants or pollutants into its works at the time of issuance of the permit. Notice must describe the quality and quantity of effluent being introduced or to be introduced into such works or facility and the anticipated impact of such introduction on the quality or quantity of effluent to be released from such works or facility into waters of the state.

12. The director or the commission may require the filing or posting of a bond as a condition for the issuance of permits for construction of temporary or future water treatment facilities or facilities that utilize innovative technology for wastewater treatment in an amount determined by the commission to be sufficient to ensure compliance with all provisions of sections 644.006 to 644.141, and any rules or regulations of the commission and any condition as to such construction in the permit. For the purposes of this section, "innovative technology for wastewater treatment" shall mean a completely new and generally unproven technology in the type or method of its application that bench testing or theory suggest has environmental, efficiency, and cost benefits beyond the standard technologies. No bond shall be required for designs approved by any federal agency or environmental regulatory agency of another state. The bond shall be signed by the applicant as principal, and by a corporate surety licensed to do business in the state of Missouri and approved by the commission. The bond shall remain in effect until the terms and conditions of the permit are met and the provisions of sections 644.006 to 644.141 and rules and regulations promulgated pursuant thereto are complied with.

13. (1) The department shall issue or deny applications for construction and site-specific operating permits received after January 1, 2001, within one hundred eighty days of the department's receipt of an application. For general construction and operating permit applications received after January 1, 2001, that do not require a public participation process, the department

shall issue or deny the permits within sixty days of the department's receipt of an application. For an application seeking coverage under a renewed general permit that does not require an individual public participation process, the director shall issue or deny the permit within sixty days of the director's receipt of the application, or upon issuance of the general permit, whichever is later. In regard to an application seeking coverage under an initial general permit that does not require an individual public participation process, the director shall issue or deny the permit within sixty days of the department's receipt of the application. For an application seeking coverage under a renewed general permit that requires an individual public participation process, the director shall issue or deny the permit within ninety days of the director's receipt of the application, or upon issuance of the general permit, whichever is later. In regard to an application for an initial general permit that requires an individual public participation process, the director shall issue or deny the permit within ninety days of the director's receipt of the application.

(2) If the department fails to issue or deny with good cause a construction or operating permit application within the time frames established in subdivision (1) of this subsection, the department shall refund the full amount of the initial application fee within forty-five days of failure to meet the established time frame. If the department fails to refund the application fee within forty-five days, the refund amount shall accrue interest at a rate established pursuant to section 32.065.

(3) Permit fee disputes may be appealed to the commission within thirty days of the date established in subdivision (2) of this subsection. If the applicant prevails in a permit fee dispute appealed to the commission, the commission may order the director to refund the applicant's permit fee plus interest and reasonable attorney's fees as provided in sections 536.085 and 536.087. A refund of the initial application or annual fee does not waive the applicant's responsibility to pay any annual fees due each year following issuance of a permit.

(4) No later than December 31, 2001, the commission shall promulgate regulations defining shorter review time periods than the time frames established in subdivision (1) of this subsection, when appropriate, for different classes of construction and operating permits. In no case shall commission regulations adopt permit review times that exceed the time frames established in subdivision (1) of this subsection. The department's failure to comply with the commission's permit review time periods shall result in a refund of said permit fees as set forth in subdivision (2) of this subsection. On a semiannual basis, the department shall submit to the commission a report which describes the different classes of permits and reports on the number of days it took the department to issue each permit from the date of receipt of the application and show averages for each different class of permits.

(5) During the department's technical review of the application, the department may request the applicant submit supplemental or additional information necessary for adequate permit review. The department's technical review letter shall contain a sufficient description of the type of additional information needed to comply with the application requirements.

(6) Nothing in this subsection shall be interpreted to mean that inaction on a permit application shall be grounds to violate any provisions of sections 644.006 to 644.141 or any rules promulgated pursuant to sections 644.006 to 644.141.

14. The department shall respond to all requests for individual certification under Section 401 of the Federal Clean Water Act within the lesser of sixty days or the allowed response period established pursuant to applicable federal regulations without request for an extension period unless such extension is determined by the commission to be necessary to evaluate significant impacts on water quality standards and the commission establishes a timetable for completion of such evaluation in a period of no more than one hundred eighty days.

15. All permit fees generated pursuant to this chapter shall not be used for the development or expansion of total maximum daily loads studies on either the Missouri or Mississippi rivers.

16. The department shall implement permit shield provisions equivalent to the permit shield provisions implemented by the U.S. Environmental Protection Agency pursuant to the Clean

Water Act, Section 402(k), 33 U.S.C. Section 1342(k), and its implementing regulations, for permits issued pursuant to chapter 644.

17. Prior to the development of a new general permit or reissuance of a general permit for aquaculture, land disturbance requiring a storm water permit, or reissuance of a general permit under which fifty or more permits were issued under a general permit during the immediately preceding five-year period for a designated category of water contaminant sources, the director shall implement a public participation process complying with the following minimum requirements:

(1) For a new general permit or reissuance of a general permit, a general permit template shall be developed for which comments shall be sought from permittees and other interested persons prior to issuance of the general permit;

(2) The director shall publish notice of his intent to issue a new general permit or reissue a general permit by posting notice on the department's website at least one hundred eighty days before the proposed effective date of the general permit;

(3) The director shall hold a public informational meeting to provide information on anticipated permit conditions and requirements and to receive informal comments from permittees and other interested persons. The director shall include notice of the public informational meeting with the notice of intent to issue a new general permit or reissue a general permit under subdivision (2) of this subsection. The notice of the public informational meeting, including the date, time and location, shall be posted on the department's website at least thirty days in advance of the public meeting. If the meeting is being held for reissuance of a general permit, notice shall also be made by electronic mail to all permittees holding the current general permit which is expiring. Notice to current permittees shall be made at least twenty days prior to the public meeting;

(4) The director shall hold a thirty-day public comment period to receive comments on the general permit template with the thirty-day comment period expiring at least sixty days prior to the effective date of the general permit. Scanned copies of the comments received during the public comment period shall be posted on the department's website within five business days after close of the public comment period;

(5) A revised draft of a general permit template and the director's response to comments submitted during the public comment period shall be posted on the department's website at least forty-five days prior to issuance of the general permit. At least forty-five days prior to issuance of the general permit the department shall notify all persons who submitted comments to the department that these documents have been posted to the department's website;

(6) Upon issuance of a new or renewed general permit, the general permit shall be posted to the department's website.

18. Notices required to be made by the department pursuant to subsection 17 of this section may be made by electronic mail. The department shall not be required to make notice to any permittee or other person who has not provided a current electronic mail address to the department. In the event the department chooses to make material modifications to the general permit before its expiration, the department shall follow the public participation process described in subsection 17 of this section.

19. The provisions of subsection 17 of this section shall become effective beginning January 1, 2013.

644.056. INVESTIGATIONS, WHEN — MISREPRESENTATION OR FAILURE TO DISCLOSE A VIOLATION, WHEN — ABATEMENT ORDERS, WHEN — PERMITS TERMINATED, WHEN — HEARINGS — APPEALS. — 1. The director shall cause investigations to be made upon the request of the commission or upon receipt of information concerning alleged violations of sections 644.006 to 644.141 or any standard, limitation, order, rule or regulation promulgated pursuant thereto, or any term or condition of any permit and may cause to be made any other

investigations he or she deems advisable. Violations shall include obtaining a permit by misrepresentation or failure to fully disclose all relevant facts.

2. If, in the opinion of the director, the investigation discloses that a violation does exist, the director may, by conference, conciliation or persuasion, endeavor to eliminate the violation.

3. In case of the failure by conference, conciliation or persuasion to correct or remedy any claimed violation, or as required to immediately and effectively halt or eliminate any imminent or substantial endangerments to the health or welfare of persons resulting from the discharge of pollutants, the director [shall] **may** order abatement [or file an abatement complaint with the commission if no permit has been issued, or in addition may file a complaint to revoke a permit if such permit has been issued] **or request legal action by the attorney general**. When the director files a complaint, the commission shall order a hearing. The director shall cause to have issued and served upon the person complained against a written notice of the order or complaint, together with a copy of the order or complaint, which shall specify the provision of sections 644.006 to 644.141 or the standard, rule, limitation, or regulation adopted pursuant thereto, or the condition of the permit of which the person is alleged to be in violation, and a statement of the manner in which and the extent to which the person is alleged to violate sections 644.006 to 644.141 or the standard, rule, limitation, or regulation, or condition of the permit. In any case involving a complaint, the commission shall require the person complained against to answer the charges of the formal complaint at a hearing before the commission at a time not less than thirty days after the date of notice. Service may be made upon any person within or without the state by registered mail, return receipt requested. Any person against whom the director issues an order may appeal the order to the commission within thirty days and the appeal shall stay the enforcement of the order until final determination by the commission. The commission shall set appeals for a hearing at a time not less than thirty days after the date of the request. The commission may sustain, reverse, or modify the director's order or may make such other orders as the commission deems appropriate under the circumstances. If any order issued by the director is not appealed within the time provided in this section, the order becomes final and may be enforced as provided in section 644.076. **When the commission schedules a matter for hearing, the petitioner on appeal or the respondent to a formal complaint may appear at the hearing in person or by counsel, and may make oral argument, offer testimony and evidence, and cross-examine witnesses. After due consideration of the record, or upon default in appearance of the respondent on the return day specified in the notice given as provided in this subsection, the commission shall issue and enter such final order, or make such final determination as it deems appropriate under the circumstances, and it shall immediately notify the petitioner or respondent thereof in writing by certified or registered mail.**

4. Permits may be **revoked**, terminated, or modified if obtained in violation of sections 644.006 to 644.141 or by misrepresentation or failing to fully disclose all relevant facts, or when required to prevent violations of any provision of sections 644.006 to 644.141, or to protect the waters of this state, when such action is required by a change in conditions or the existence of a condition which requires either a temporary or permanent reduction or elimination of the authorized discharge, subject to the right of appeal contained in [this section] **sections 621.250 and 640.013**.

5. [When the commission schedules a matter for hearing, the petitioner on appeal or the respondent to a formal complaint may appear at the hearing in person or by counsel, and may make oral argument, offer testimony and evidence, and cross-examine witnesses.

6. After due consideration of the record, or upon default in appearance of the respondent on the return day specified in the notice given as provided in subsection 3, the commission shall issue and enter such final order, or make such final determination as it deems appropriate under the circumstances, and it shall immediately notify the petitioner or respondent thereof in writing by certified or registered mail.] **Whenever a permit under this chapter is revoked, terminated, or modified by the department of natural resources, the applicant, by petition**

filed with the administrative hearing commission within thirty days of the decision, may appeal such decision as provided by sections 621.250 and 640.013. Once the administrative hearing commission has reviewed the appeal, the administrative hearing commission shall issue a recommended decision to the commission on permit revocation, termination, or modification. The commission shall issue its own decision, based on the appeal, for permit revocation, termination, or modification. If the commission changes a finding of fact or conclusion of law made by the administrative hearing commission, or modifies or vacates the decision recommended by the administrative hearing commission, it shall issue its own decision, which shall include findings of fact and conclusions of law. The commission shall mail copies of its final decision to the parties to the appeal or their counsel of record. The commission's decision shall be subject to judicial review pursuant to chapter 536, except that the court of appeals district with territorial jurisdiction coextensive with the county where the point source is located or is to be located shall have original jurisdiction. No judicial review shall be available until and unless all administrative remedies are exhausted.

644.145. AFFORDABILITY FINDING REQUIRED, WHEN — DEFINITIONS — PROCEDURES TO BE ADOPTED — APPEAL OF DETERMINATION — ANNUAL REPORT, CONTENTS. — 1. When issuing permits under this chapter that incorporate a new requirement for discharges from publicly owned combined or separate sanitary or storm sewer systems or **water or sewer** treatment works, or when enforcing provisions of this chapter or the Federal Water Pollution Control Act, 33 U.S.C. Section 1251, et seq., pertaining to any portion of a publicly owned combined or separate sanitary or storm sewer system or **water or sewer** treatment works, the department of natural resources shall make a finding of affordability on the costs to be incurred and the impact of any rate changes on ratepayers upon which to base such permits and decisions, to the extent allowable under this chapter and the Federal Water Pollution Control Act.

2. (1) The department of natural resources shall not be required under this section to make a finding of affordability when:

(a) Issuing collection system extension permits;

(b) Issuing National Pollution Discharge Elimination System operating permit renewals which include no new environmental requirements; or

(c) The permit applicant certifies that the applicable requirements are affordable to implement or otherwise waives the requirement for an affordability finding; however, at no time shall the department require that any applicant certify, as a condition to approving any permit, administrative or civil action, that a requirement, condition, or penalty is affordable.

(2) The exceptions provided under paragraph (c) of subdivision (1) of this subsection do not apply when the community being served has less than three thousand three hundred residents.

3. When used in this chapter and in standards, rules and regulations promulgated pursuant to this chapter, the following words and phrases mean:

(1) "Affordability", with respect to payment of a utility bill, a measure of whether an individual customer or household with an income equal to [the] **or** lower [of] **than** the median household income for their community [or the state of Missouri] can pay the bill without undue hardship or unreasonable sacrifice in the essential lifestyle or spending patterns of the individual or household, taking into consideration the criteria described in subsection 4 of this section;

(2) "Financial capability", the financial capability of a community to make investments necessary to make water quality-related improvements;

(3) "Finding of affordability", a department statement as to whether an individual or a household receiving as income an amount equal to [the] **or** lower [of] **than** the median household income for the applicant community [or the state of Missouri] would be required to make unreasonable sacrifices in [their] **the individual's or the household's** essential lifestyle or spending patterns or undergo hardships in order to make the projected monthly payments for

sewer services. The department shall make a statement that the proposed changes meet the definition of affordable, or fail to meet the definition of affordable, or are implemented as a federal mandate regardless of affordability.

4. The department of natural resources shall adopt procedures by which it will make affordability findings that evaluate the affordability of permit requirements and enforcement actions described in subsection 1 of this section, and may begin implementing such procedures prior to promulgating implementing regulations. The commission shall have the authority to promulgate rules to implement this section pursuant to chapters 536 and 644, and shall promulgate such rules as soon as practicable. Affordability findings shall be based upon reasonably verifiable data and shall include an assessment of affordability with respect to persons or entities affected. The department shall offer the permittee an opportunity to review a draft affordability finding, and the permittee may suggest changes and provide additional supporting information, subject to subsection 6 of this section. The finding shall be based upon the following criteria:

- (1) A community's financial capability and ability to raise or secure necessary funding;
- (2) Affordability of pollution control options for the individuals or households at or below the median household income level of the community;
- (3) An evaluation of the overall costs and environmental benefits of the control technologies;
- (4) Inclusion of ongoing costs of operating and maintaining the existing wastewater collection and treatment system, including payments on outstanding debts for wastewater collection and treatment systems when calculating projected rates;
- (5) An inclusion of ways to reduce economic impacts on distressed populations in the community, including but not limited to low- and fixed-income populations. This requirement includes but is not limited to:
 - (a) Allowing adequate time in implementation schedules to mitigate potential adverse impacts on distressed populations resulting from the costs of the improvements and taking into consideration local community economic considerations; and
 - (b) Allowing for reasonable accommodations for regulated entities when inflexible standards and fines would impose a disproportionate financial hardship in light of the environmental benefits to be gained;
- (6) An assessment of other community investments and operating costs relating to environmental improvements and public health protection;
- (7) An assessment of factors set forth in the United States Environmental Protection Agency's guidance, including but not limited to the "Combined Sewer Overflow Guidance for Financial Capability Assessment and Schedule Development" that may ease the cost burdens of implementing wet weather control plans, including but not limited to small system considerations, the attainability of water quality standards, and the development of wet weather standards; and

(8) An assessment of any other relevant local community economic condition.

5. Prescriptive formulas and measures used in determining financial capability, affordability, and thresholds for expenditure, such as median household income, should not be considered to be the only indicator of a community's ability to implement control technology and shall be viewed in the context of other economic conditions rather than as a threshold to be achieved.

6. Reasonable time spent preparing draft affordability findings, allowing permittees to review draft affordability findings or draft permits, or revising draft affordability findings, shall be allowed in addition to the department's deadlines for making permitting decisions pursuant to section 644.051.

7. If the department of natural resources fails to make a finding of affordability where required by this section, then the resulting permit or decision shall be null, void and unenforceable.

8. The department of natural resources' findings under this section may be appealed to the commission pursuant to subsection 6 of section 644.051.

9. The department shall file an annual report by the beginning of the fiscal year with the governor, the speaker of the house of representatives, the president pro tempore of the senate, and the chairs of the committees in both houses having primary jurisdiction over natural resource issues showing at least the following information on the findings of affordability completed in the previous calendar year:

(1) The total number of findings of affordability issued by the department, those categorized as affordable, those categorized as not meeting the definition of affordable, and those implemented as a federal mandate regardless of affordability;

(2) The average increase in sewer rates both in dollars and percentage for all findings found to be affordable;

(3) The average increase in sewer rates as a percentage of median house income in the communities for those findings determined to be affordable and a separate calculation of average increases in sewer rates for those found not to meet the definition of affordable;

(4) A list of all the permit holders receiving findings, and for each permittee the following data taken from the finding of affordability shall be listed:

(a) Current and projected monthly residential sewer rates in dollars;

(b) Projected monthly residential sewer rates as a percentage of median [house] **household** income;

(c) Percentage of households at or below the state poverty rate.

Approved July 14, 2015

HB 111 [HB 111]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding sales tax on used manufactured homes

AN ACT to repeal section 144.044, RSMo, and to enact in lieu thereof one new section relating to sales tax on manufactured homes.

SECTION

A. Enacting clause.

144.044. New manufactured homes and modular units — partial sales tax exemption — sale of used manufactured home, exemption.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 144.044, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.044, to read as follows:

144.044. NEW MANUFACTURED HOMES AND MODULAR UNITS — PARTIAL SALES TAX EXEMPTION — SALE OF USED MANUFACTURED HOME, EXEMPTION. — 1. As used in this section, the following terms mean:

(1) "Sale of a modular unit", a transfer of a modular unit as defined in section 700.010;

(2) "Sale of a new manufactured home", a transfer of a manufactured home, as defined in section 700.010, which involves the delivery of the document known as the manufacturer's statement of origin to a person other than a manufactured home dealer, as dealer is defined in section 700.010, for purposes of allowing such person to obtain a title to the manufactured home

from the department of revenue of this state or the appropriate agency or officer of any other state;

(3) "Sale of a used manufactured home", any subsequent sale of a manufactured home as defined in section 700.010, which does not qualify as "new" as defined in subdivision (9) of section 700.010.

2. In the event of the sale of a new manufactured home, forty percent of the purchase price, as defined in section 700.320, shall be considered the sale of a service and not the sale of tangible personal property. In addition to the exemptions granted under the provisions of section 144.030, the sale of services as defined in this section shall be specifically exempted from the provisions of sections 238.235 and 238.410, the local sales tax law as defined in section 32.085, sections 144.010 to 144.525 and 144.600 to [144.745] **144.761**, and from the computation of the tax levied, assessed or payable under sections 238.235 and 238.410, the local sales tax law as defined in section 32.085, sections 144.010 to 144.525 and 144.600 to [144.745] **144.761**, and section 238.235.

3. In the event of the sale of a new modular unit, forty percent of the retail sale of the unit or forty percent of the manufacturer's sales price of the unit if the manufacturer makes a sale to a consumer that is not a retail sale, plus any carrier charge and freight charges shall be considered the sale of a service and sixty percent shall be the retail sale of tangible personal property. In addition to the exemptions granted under the provisions of section 144.030, the sale of services as defined in this section shall be specifically exempted from the provisions of sections 238.235 and 238.410, the local sales tax law as defined in section 32.085, sections 144.010 to 144.525 and 144.600 to [144.745] **144.761**, and from the computation of the tax levied, assessed, or payable under sections 238.235 and 238.410, the local sales tax law as defined in section 32.085, sections 144.010 to 144.525 and 144.600 to [144.745] **144.761**, and section 238.235.

4. In addition to the exemptions granted under the provisions of section 144.030, the sale of a used manufactured home as defined in this section shall be specifically exempted from the provisions of sections 238.235 and 238.410, the local sales tax law as defined in section 32.085, sections 144.010 to 144.525 and 144.600 to 144.761, and from the computation of the tax levied, assessed, or payable under sections 238.235 and 238.410, the local sales tax law as defined in section 32.085, sections 144.010 to 144.525 and 144.600 to 144.761, and section 238.235.

Approved June 22, 2015

HB 125 [HB 125]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Specifies that the directors of any industrial development corporation formed by a municipality in St. Francois County may be taxpayers and registered voters in the county

AN ACT to repeal section 349.045, RSMo, and to enact in lieu thereof one new section relating to industrial development corporation directors.

SECTION

- A. Enacting clause.
 349.045. Board of directors, qualifications, — exceptions for industrial development corporations (second, third, fourth class counties, St. Francois County) — appointment, terms — requirements for Lewis County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 349.045, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 349.045, to read as follows:

349.045. BOARD OF DIRECTORS, QUALIFICATIONS — EXCEPTIONS FOR INDUSTRIAL DEVELOPMENT CORPORATIONS (SECOND, THIRD, FOURTH CLASS COUNTIES, ST. FRANCOIS COUNTY)—APPOINTMENT, TERMS—REQUIREMENTS FOR LEWIS COUNTY. — 1. Except as provided in subsection 2 of this section, the corporation shall have a board of directors in which all the powers of the corporation shall be vested and which shall consist of any number of directors, not less than five, all of whom shall be duly qualified electors of and taxpayers in the county or municipality; except that, for any industrial development corporation formed by any municipality located wholly within any county of the second, third, or fourth classification **or any county of the first classification with more than sixty-five thousand but fewer than seventy-five thousand inhabitants**, directors may be qualified taxpayers in and registered voters of such county. The directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in and about the performance of their duties hereunder. The directors shall be resident taxpayers for at least one year immediately prior to their appointment. No director shall be an officer or employee of the county or municipality. All directors shall be appointed by the chief executive officer of the county or municipality with the advice and consent of a majority of the governing body of the county or municipality, and in all counties, other than a city not within a county and counties with a charter form of government, the appointments shall be made by the county commission and they shall be so appointed that they shall hold office for staggered terms. At the time of the appointment of the first board of directors the governing body of the municipality or county shall divide the directors into three groups containing as nearly equal whole numbers as may be possible. The first term of the directors included in the first group shall be two years, the first term of the directors included in the second group shall be four years, the first term of the directors in the third group shall be six years; provided, that if at the expiration of any term of office of any director a successor thereto shall not have been appointed, then the director whose term of office shall have expired shall continue to hold office until a successor shall be appointed by the chief executive officer of the county or municipality with the advice and consent of a majority of the governing body of the county or municipality. The successors shall be resident taxpayers for at least one year immediately prior to their appointment.

2. A corporation in a county of the third classification without a township form of government and with more than ten thousand four hundred but fewer than ten thousand five hundred inhabitants shall have a board of directors in which all the powers of the corporation shall be vested and which shall consist of a number of directors not less than the number of townships in such county. All directors shall be duly qualified electors of and taxpayers in the county. Each township within the county shall elect one director to the board. Additional directors may be elected to the board to succeed directors appointed to the board as of the effective date of this section if the number of directors on the effective date of this section exceeds the number of townships in the county. The directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in the performance of their duties. The directors shall be resident taxpayers for at least one year immediately prior to their election. No director shall be an officer or employee of the county. Upon the expiration of the term of office of any director appointed to the board prior to the effective date of this section, a director shall be elected to succeed him or her; provided that if at the expiration of any term of office of any director a successor thereto shall not have been elected, then the director whose term of office shall have expired shall continue to hold office until a successor shall be elected. The successors shall be resident taxpayers for at least one year immediately prior to their election.

Approved June 30, 2015

HB 137 [SS HCS HB 137]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding competitive bidding for a contract license office

AN ACT to repeal sections 34.040, 67.617, and 136.055, RSMo, and to enact in lieu thereof three new sections relating to competitive bidding, with an emergency clause.

SECTION

- A. Enacting clause.
- 34.040. Purchases to be made on competitive bids, when, how — standard specifications, when — exception — failure to pay taxes, effect of.
- 67.617. Annual report — annual audit by certified public accountant, compensation — certain exemptions from Sunshine Law.
- 136.055. Agent to collect motor vehicle taxes and issue licenses — awarding of fee offices — fees — audit of records, when.
- B. Emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 34.040, 67.617, and 136.055, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 34.040, 67.617, and 136.055, to read as follows:

34.040. PURCHASES TO BE MADE ON COMPETITIVE BIDS, WHEN, HOW — STANDARD SPECIFICATIONS, WHEN — EXCEPTION — FAILURE TO PAY TAXES, EFFECT OF. — 1. All purchases in excess of three thousand dollars shall be based on competitive bids, except as otherwise provided in this chapter.

2. On any purchase where the estimated expenditure shall be twenty-five thousand dollars or over, except as provided in subsection 5 of this section, the commissioner of administration shall:

(1) Advertise for bids in at least two daily newspapers of general circulation in such places as are most likely to reach prospective bidders and may advertise in at least two weekly minority newspapers and may provide such information through an electronic medium available to the general public at least five days before bids for such purchases are to be opened. Other methods of advertisement, which may include minority business purchase councils, however, may be adopted by the commissioner of administration when such other methods are deemed more advantageous for the supplies to be purchased;

(2) Post a notice of the proposed purchase in his or her office; and

(3) Solicit bids by mail or other reasonable method generally available to the public from prospective suppliers. All bids for such supplies shall be mailed or delivered to the office of the commissioner of administration so as to reach such office before the time set for opening bids.

3. The contract shall be let to the lowest and best bidder. The commissioner of administration shall have the right to reject any or all bids and advertise for new bids, or purchase the required supplies on the open market if they can be so purchased at a better price. When bids received pursuant to this section are unreasonable or unacceptable as to terms and conditions, noncompetitive, or the low bid exceeds available funds and it is determined in writing by the commissioner of administration that time or other circumstances will not permit the delay required to resolicit competitive bids, a contract may be negotiated pursuant to this section, provided that each responsible bidder who submitted such bid under the original solicitation is notified of the determination and is given a reasonable opportunity to modify their bid and submit a best and final bid to the state. In cases where the bids received are noncompetitive or

the low bid exceeds available funds, the negotiated price shall be lower than the lowest rejected bid of any responsible bidder under the original solicitation.

4. The director of the department of revenue shall follow bidding procedures as contained in this chapter and may promulgate rules necessary to establish such procedures. No points shall be awarded on a request for proposal for a contract license office to a bidder for a return-to-the-state provision offer.

5. All bids shall be based on standard specifications wherever such specifications have been approved by the commissioner of administration. The commissioner of administration shall make rules governing the delivery, inspection, storage and distribution of all supplies so purchased and governing the manner in which all claims for supplies delivered shall be submitted, examined, approved and paid. The commissioner shall determine the amount of bond or deposit and the character thereof which shall accompany bids or contracts.

[5.] 6. The department of natural resources may, without the approval of the commissioner of administration required pursuant to this section, enter into contracts of up to five hundred thousand dollars to abate illegal waste tire sites pursuant to section 260.276 when the director of the department determines that urgent action is needed to protect public health, safety, natural resources or the environment. The department shall follow bidding procedures pursuant to this section and may promulgate rules necessary to establish such procedures. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

[6.] 7. The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise.

67.617. ANNUAL REPORT — ANNUAL AUDIT BY CERTIFIED PUBLIC ACCOUNTANT, COMPENSATION — CERTAIN EXEMPTIONS FROM SUNSHINE LAW. — 1. Each regional convention and visitors commission shall, before the second Monday in October, make an annual report to the chief executive officers and governing bodies of the city and county, respectively, and to the general assembly stating the condition of the commission on the first day of July of that year, and the various sums of money received and distributed by it during the preceding calendar year. The fiscal year for each regional convention and visitors commission shall begin on the first day of July and end on the thirtieth day of June of the following calendar year.

2. Before the close of the first fiscal year of such commission, and at the close of every third fiscal year thereafter, the chief executives of the city and county, jointly, shall appoint one or more certified public accountants, who shall annually examine the books, accounts, and vouchers of the regional convention and visitors commission, and who shall make due report thereof to the chief executives and the board of the district. The commission shall produce and submit to the accountants for examination all books, papers, documents, vouchers, and accounts of their office belonging or pertaining to the office, and shall in every way assist the accountants in their work. In the report to be made by the accountants they may make any recommendation they deem proper as to the business methods of the officers and employees. A reasonable compensation for the services of the accountants shall be paid by the commission.

3. In addition to the exceptions available under sections 610.010 to 610.225, the leases, agreements, contracts, or subleases, and any amendments thereto, for space, usage, or services in any convention center or related facilities owned or operated by a regional convention and visitors commission, or any drafts or unexecuted versions of such documents, shall not be considered public records within the meaning of subdivision (6) of section 610.010, when, in the reasonable judgment of the commission, the disclosure of the information in the records may endanger the competitiveness of the business or prospects of the commission or provide an unfair advantage to its competitors; provided, however, that the foregoing may not be deemed to include any leases, agreements, contracts, or subleases involving a professional sports franchise.

136.055. AGENT TO COLLECT MOTOR VEHICLE TAXES AND ISSUE LICENSES — AWARDING OF FEE OFFICES — FEES — AUDIT OF RECORDS, WHEN. — 1. Any person who is selected or appointed by the state director of revenue as provided in subsection 2 of this section to act as an agent of the department of revenue, whose duties shall be the processing of motor vehicle title and registration transactions and the collection of sales and use taxes when required under sections 144.070 and 144.440, and who receives no salary from the department of revenue, shall be authorized to collect from the party requiring such services additional fees as compensation in full and for all services rendered on the following basis:

(1) For each motor vehicle or trailer registration issued, renewed or transferred — three dollars and fifty cents and seven dollars for those licenses sold or biennially renewed pursuant to section 301.147;

(2) For each application or transfer of title — two dollars and fifty cents;

(3) For each instruction permit, nondriver license, chauffeur's, operator's or driver's license issued for a period of three years or less — two dollars and fifty cents and five dollars for licenses or instruction permits issued or renewed for a period exceeding three years;

(4) For each notice of lien processed — two dollars and fifty cents;

(5) No notary fee or other fee or additional charge shall be paid or collected except for electronic telephone transmission reception — two dollars.

2. The director of revenue shall award fee office contracts under this section through a competitive bidding process. The competitive bidding process shall give priority to organizations and entities that are exempt from taxation under Section 501(c)(3) [or], 501(c)(6), or **501(c)(4), except those civic organizations that would be considered action organizations under 26 C.F.R. Section 1.501(c)(3)- 1(c)(3),** of the Internal Revenue Code of 1986, as amended, **with special consideration given to those organizations and entities that reinvest a minimum of seventy-five percent of the net proceeds to charitable organizations in Missouri,** and political subdivisions, including but not limited to, municipalities, counties, and fire protection districts. The director of the department of revenue may promulgate rules and regulations necessary to carry out the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this subsection shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be invalid and void.

3. All fees collected by a tax-exempt organization may be retained and used by the organization.

4. All fees charged shall not exceed those in this section. The fees imposed by this section shall be collected by all permanent offices and all full-time or temporary offices maintained by the department of revenue.

5. Any person acting as agent of the department of revenue for the sale and issuance of registrations, licenses, and other documents related to motor vehicles shall have an insurable

interest in all license plates, licenses, tabs, forms and other documents held on behalf of the department.

6. The fees authorized by this section shall not be collected by motor vehicle dealers acting as agents of the department of revenue under section 32.095 or those motor vehicle dealers authorized to collect and remit sales tax under subsection 8 of section 144.070.

7. Notwithstanding any other provision of law to the contrary, the state auditor may audit all records maintained and established by the fee office in the same manner as the auditor may audit any agency of the state, and the department shall ensure that this audit requirement is a necessary condition for the award of all fee office contracts. No confidential records shall be divulged in such a way to reveal personally identifiable information.

SECTION B. EMERGENCY CLAUSE. — Because of the need to ensure a fair bidding process for contract license offices, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.

Allowed to go into effect pursuant to Article III, Section 31 of the Missouri Constitution

HB 179 [HB 179]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows a retired military member to provide a Veterans' Identification Card issued by the United States Department of Veterans Affairs in order to receive a veteran designation on his or her driver's license

AN ACT to repeal section 302.188, RSMo, and to enact in lieu thereof one new section relating to veteran designation on driver's licenses.

SECTION

A. Enacting clause.

302.188. Veteran designation on driver's licensed or ID card, requirements — rulemaking authority.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 302.188, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 302.188, to read as follows:

302.188. VETERAN DESIGNATION ON DRIVER'S LICENSED OR ID CARD, REQUIREMENTS — RULEMAKING AUTHORITY. — 1. A person may apply to the department of revenue to obtain a veteran designation on a driver's license or identification card issued under this chapter by providing:

(1) A United States Department of Defense discharge document, otherwise known as a DD Form 214, that shows a discharge status of "honorable" or "general under honorable conditions" that establishes the person's service in the Armed Forces of the United States; [and] **or**

(2) **A United States Uniformed Services Identification Card, otherwise known as a DD Form 2, that includes a discharge status of "retired" or "reserve retired" establishing the person's service in the Armed Forces of the United States; and**

(3) Payment of the fee for the driver's license or identification card authorized under this chapter.

2. If the person is seeking a duplicate driver's license with the veteran designation and his or her driver's license has not expired, the fee shall be as provided under section 302.185.

3. The department of revenue may determine the appropriate placement of the veteran designation on the driver's licenses and identification cards authorized under this section and may promulgate the necessary rules for administration of this section.

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be invalid and void.

Approved June 25, 2015

HB 259 [HCS HB 259]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the Missouri Dairy Revitalization Act of 2015

AN ACT to amend chapter 261, RSMo, by adding thereto six new sections relating to the dairy industry.

SECTION

- A. Enacting clause.
- 261.270. Citation of act.
- 261.275. Fund created, use of moneys — limitation on appropriation of fund moneys — research of estimated sales tax revenue generated.
- 261.280. Dairy producer margin insurance premium assistance program, purpose — eligibility, application, reimbursement — risk management training.
- 261.285. Missouri dairy scholars program — scholarship amount — eligible student defined.
- 261.290. Annual study of dairy industry.
- 261.295. Rulemaking language.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 261, RSMo, is amended by adding thereto six new sections, to be known as sections 261.270, 261.275, 261.280, 261.285, 261.290, and 261.295, to read as follows:

261.270. CITATION OF ACT. — The provisions of sections 261.270 to 261.295 shall be known and may be cited as the "Missouri Dairy Revitalization Act of 2015".

261.275. FUND CREATED, USE OF MONEYS — LIMITATION ON APPROPRIATION OF FUND MONEYS — RESEARCH OF ESTIMATED SALES TAX REVENUE GENERATED. — **1.** There is hereby created in the state treasury the "Missouri Dairy Industry Revitalization Fund", which shall consist of moneys appropriated to the fund. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements of the fund. Upon appropriation by the general assembly, moneys in the fund shall be used solely to enhance and improve Missouri's dairy and dairy processing industries in the manner provided for in sections 261.270 to 261.295. Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining

in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

2. Moneys appropriated from the general revenue fund to the Missouri dairy industry revitalization fund shall not exceed forty percent of the estimated sales tax revenue generated in the state from the sale of dairy products during the preceding fiscal year, calculated under subsection 3 of this section, and shall be expended in the following order of priority:

(1) First, to the dairy producer margin insurance premium assistance program created under section 261.280;

(2) Second, to the Missouri dairy scholars program created under section 261.285; and

(3) Third, to the commercial agriculture program created under section 261.290.

3. Each fiscal year the University of Missouri shall conduct research, or contract with an independent research company to conduct research, to determine the estimated sales tax revenue generated in the state from the sale of dairy products. The cost for such calculation shall be paid out of the Missouri dairy industry revitalization fund. The estimated sales tax revenue generated in the state from the sale of dairy products shall be provided to the department of agriculture by October first of each year.

261.280. DAIRY PRODUCER MARGIN INSURANCE PREMIUM ASSISTANCE PROGRAM, PURPOSE — ELIGIBILITY, APPLICATION, REIMBURSEMENT — RISK MANAGEMENT TRAINING. — 1. The department of agriculture shall establish and administer, through the Missouri agricultural and small business development authority, a dairy producer margin insurance premium assistance program for the purpose of assisting dairy producers who participate in the federal margin protection program for dairy producers as contained in the federal Agricultural Act of 2014.

2. All dairy producers in the state who participate in the federal margin protection program for dairy producers shall be eligible to apply and participate in the dairy producer margin insurance premium assistance program. Dairy producers who wish to be considered for the program shall apply with the Missouri agricultural and small business development authority by January first of each year, and shall provide proof of participation in the federal margin protection program for dairy producers as contained in the federal Agricultural Act of 2014 by submitting a receipt of their paid annual federal premium payment. Eligible program participants shall receive reimbursement of seventy percent of their federal premium payment up to a maximum premium reimbursement rate of thirty-four cents per hundredweight of milk.

3. The University of Missouri and the Missouri agricultural and small business development authority shall provide risk management training for Missouri dairy producers on an annual basis.

261.285. MISSOURI DAIRY SCHOLARS PROGRAM — SCHOLARSHIP AMOUNT — ELIGIBLE STUDENT DEFINED. — 1. There is hereby established the "Missouri Dairy Scholars Program", which shall be administered by the department of agriculture. The program shall, upon appropriation, provide scholarships, subject to the eligibility criteria enumerated in this section, for eligible students in an agriculture-related degree program who make a commitment to work in the agriculture industry in Missouri as a condition of receiving such scholarship.

2. Subject to appropriations, each year the department of agriculture shall make available to eligible students up to eighty scholarships in the amount of five thousand dollars each to assist with the cost of eligible students' tuition and fees at a two-year or

four-year college or university in Missouri. Such amount shall be paid out of the Missouri dairy industry revitalization fund created in section 261.275.

3. As used in this section, the term "eligible student" shall mean an individual who:

(1) Is a United States citizen and a Missouri resident who has graduated from a Missouri high school with a cumulative grade point average of at least two and one-half on a four-point scale or equivalent; except that, in any year in which there are less than eighty United States citizens and Missouri residents who shall be awarded scholarships, applicants who are legal United States residents who meet all other eligibility requirements shall be eligible for the remaining scholarships;

(2) Is pursuing or has attained an agriculture- related degree approved by the department of agriculture and offered by a two-year or four-year college or university in Missouri;

(3) Signs an agreement with the department of agriculture in which the recipient agrees to work in the agriculture industry in Missouri for at least two years for every one year the recipient received the Missouri dairy scholars scholarship;

(4) Maintains a cumulative grade point average of at least two and one-half on a four-point scale or equivalent while enrolled in the college or university program; and

(5) Works on a dairy farm or has a dairy-related internship for at least three months of each year the recipient receives the Missouri dairy scholars scholarship.

261.290. ANNUAL STUDY OF DAIRY INDUSTRY. — The University of Missouri's commercial agriculture program shall conduct an annual study of the dairy industry and shall develop a dairy-specific plan for how to grow and enhance the dairy and dairy processing industries in Missouri. The results of such study shall be reported to the department of agriculture and all agriculture-related legislative committee chairpersons by January first of each year. The costs for such study shall be subject to appropriations and shall be paid out of the Missouri dairy industry revitalization fund created under section 261.275.

261.295. RULEMAKING LANGUAGE. — The department of agriculture shall promulgate rules and regulations for the implementation of sections 261.270 to 261.295. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section and section 348.273 shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

Approved April 10, 2015

HB 269 [HB 269]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires motorboats to carry two B1 type fire extinguishers, one B2 fire extinguisher, or a fixed fire extinguisher and one B1 type fire extinguisher

AN ACT to repeal section 306.100, RSMo, and to enact in lieu thereof one new section relating to motorboats.

SECTION

A. Enacting clause.

306.100. Classification of vessels — equipment requirements.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 306.100, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 306.100, to read as follows:

306.100. CLASSIFICATION OF VESSELS — EQUIPMENT REQUIREMENTS. — 1. For the purpose of this section, vessels shall be divided into four classes as follows:

- (1) Class A, less than sixteen feet in length;
- (2) Class 1, at least sixteen and less than twenty-six feet in length;
- (3) Class 2, at least twenty-six and less than forty feet in length;
- (4) Class 3, forty feet and over.

2. All vessels shall display from sunset to sunrise the following lights when under way, and during such time no other lights, continuous spotlights or docking lights, or other nonprescribed lights shall be exhibited:

- (1) Vessels of classes A and 1:

- (a) A bright white light aft to show all around the horizon;
 - (b) A combined light in the forepart of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points (22 1/2 degrees) abaft the beam on their respective sides;

- (2) Vessels of classes 2 and 3:

- (a) A bright white light in the forepart of the vessel as near the stem as practicable, so constructed as to show the unbroken light over an arc of the horizon of twenty points (22 1/2 degrees) of the compass, so fixed as to throw the light ten points (11 1/2 degrees) on each side of the vessel; namely, from right ahead to two points (22 1/2 degrees) abaft the beam on either side;

- (b) A bright white light aft to show all around the horizon and higher than the white light forward;

- (c) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points (11 1/2 degrees) of the compass, so fixed as to throw the light from right ahead to two points (22 1/2 degrees) abaft the beam on the starboard side; on the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points (11 1/2 degrees) of the compass, so fixed as to throw the light from right ahead to two points (22 1/2 degrees) abaft the beam on the portside. The side lights shall be fitted with inboard screens so set as to prevent these lights from being seen across the bow;

- (3) Vessels of classes A and 1 when propelled by sail alone shall exhibit the combined light prescribed by this section and a twelve point (135 degree) white light aft. Vessels of classes 2 and 3, when so propelled, shall exhibit the colored side lights, suitably screened, prescribed by this section and a twelve point (135 degree) white light aft;

- (4) All vessels between the hours of sunset and sunrise that are not under way, moored at permanent dockage or attached to an immovable object on shore so that they do not extend more than fifty feet from the shore shall display one three-hundred-sixty-degree white light visible three hundred sixty degrees around the horizon;

- (5) Every white light prescribed by this section shall be of such character as to be visible at a distance of at least two miles. Every colored light prescribed by this section shall be of such character as to be visible at a distance of at least one mile. The word "visible" in this subsection, when applied to lights, shall mean visible on a dark night with clear atmosphere;

- (6) When propelled by sail and machinery every vessel shall carry the lights required by this section for a motorboat propelled by machinery only.

3. Any watercraft not defined as a vessel shall, from sunset to sunrise, carry, ready at hand, a lantern or flashlight showing a white light which shall be exhibited in sufficient time to avert collision.

4. Any vessel may carry and exhibit the lights required by the federal regulations for preventing collisions at sea, in lieu of the lights required by subsection 2 of this section.

5. All other watercraft over sixty-five feet in length and those propelled solely by wind effect on the sail shall display lights prescribed by federal regulations.

6. Any watercraft used by a person engaged in the act of sport fishing is not required to display any lights required by this section if no other vessel is within the immediate vicinity of the first vessel, the vessel is using an electric trolling motor and the vessel is within fifty feet of the shore.

7. Every vessel, except those in class A, shall have on board at least one wearable personal flotation device of type I, II or III for each person on board and each person being towed who is not wearing one. Every such vessel shall also have on board at least one type IV throwable personal flotation device.

8. All class A motorboats and all watercraft traveling on the waters of this state shall have on board at least one type I, II, III or IV personal flotation device for each person on board and each person being towed who is not wearing one.

9. All lifesaving devices required by subsections 7 and 8 of this section shall be United States Coast Guard approved, in serviceable condition and so placed as to be readily accessible.

10. Every vessel which is carrying or using flammable or toxic fluid in any enclosure for any purpose, and which is not an entirely open vessel, shall have an efficient natural or mechanical ventilation system which must be capable of removing resulting gases prior to and during the time the vessel is occupied by any person.

11. Motorboats shall carry on board at least the following United States Coast Guard approved fire extinguishers:

(1) Every class A and every class 1 motorboat carrying or using gasoline or any other flammable or toxic fluid, one B1 type fire extinguisher;

(2) Every class 2 motorboat[, one B2 or two B1 type fire extinguishers;] :

(a) Two B1 type fire extinguishers; or

(b) One B2 type fire extinguisher; or

(c) A fixed fire extinguishing system and one B1 type fire extinguisher; and

(3) Every class 3 motorboat:

(a) Three B1 type fire extinguishers; or

(b) One B2 type and one B1 type fire extinguisher; or

(c) A fixed fire extinguishing system and one B2 type fire extinguisher; or

(d) A fixed fire extinguishing system and two B1 type fire extinguishers.

12. All class 1 and 2 motorboats and vessels shall have a sounding device. All class 3 motorboats and vessels shall have at least a sounding device and one bell.

13. No person shall operate any watercraft which is not equipped as required by this section.

14. A water patrol division officer may direct the operator of any watercraft being operated without sufficient personal flotation devices, fire-fighting devices or in an overloaded or other unsafe condition or manner to take whatever immediate and reasonable steps are necessary for the safety of those aboard when, in the judgment of the officer, such operation creates a hazardous condition. The officer may direct the operator to return the watercraft to the nearest safe mooring and to remain there until the situation creating the hazardous condition is corrected.

15. A water patrol division officer may remove any unmanned or unattended watercraft from the water when, in the judgment of the officer, the watercraft creates a hazardous condition.

16. Nothing in this section shall prohibit the use of additional specialized lighting used in the act of sport fishing.

Approved June 24, 2015

HB 343 [SCS HB 343]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes a committee to assess the continuation of the Money Follows the Person Demonstration Program in order to help disabled or aging individuals transition from nursing facilities to community settings

AN ACT to amend chapter 192, RSMo, by adding thereto one new section relating to the money follows the person demonstration program.

SECTION

A. Enacting clause.

192.926. Committee established to assess continuation of demonstration program — duties of committee, members — recommendations — termination date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 192, RSMo, is amended by adding thereto one new section, to be known as section 192.926, to read as follows:

192.926. COMMITTEE ESTABLISHED TO ASSESS CONTINUATION OF DEMONSTRATION PROGRAM — DUTIES OF COMMITTEE, MEMBERS — RECOMMENDATIONS — TERMINATION DATE. — 1. By September 1, 2015, the department of social services in cooperation with the department of health and senior services and the department of mental health shall establish a committee to assess the continuation of the money follows the person demonstration program in order to support Missourians who have disabilities and those who are aging to transition from nursing facilities or habilitation centers to quality community settings. The committee shall study sustainability of the program beyond the current demonstration timeframe for all transitions to occur by September 30, 2018. The committee shall be administered and its members, with the exception of the members from the house of representatives and the senate, chosen by the director of the department of social services.

2. The committee shall:

- (1) Review the extent to which the demonstration program has achieved its purposes;
- (2) Assess any possible improvements to the program;
- (3) Investigate program elements and costs to sustain the program beyond its current demonstration period;
- (4) Explore cost savings achieved through the demonstration program;
- (5) Investigate the possibility and need to apply for a waiver from the Centers for Medicare and Medicaid Services.

3. The committee shall include fiscal staff from the department of social services, the department of health and senior services, the department of mental health, and the office of administration's division of budget and planning. The committee shall also be comprised of a representative from each of the following:

- (1) The division of senior and disability services within the department of health and senior services;
 - (2) The MO HealthNet division within the department of social services;
 - (3) The division of developmental disabilities within the department of mental health;
 - (4) Centers for independent living and area agencies on aging currently serving as money follows the person local contact agencies;
 - (5) The Missouri assistive technology council;
 - (6) The Missouri developmental disabilities council;
-

(7) The skilled nursing community predominately serving MO HealthNet participants;

(8) The Missouri house of representatives, appointed by the speaker of the house of representatives; and

(9) The Missouri senate, appointed by the president pro tempore of the senate.

4. The committee may also include other members or workgroups deemed necessary to accomplish its purposes, including but not limited to representatives from state agencies, local advisory groups and community members, and members of the general assembly with valuable input regarding the activities of the money follows the person demonstration program.

5. The department of social services in cooperation with the department of health and senior services and the department of mental health shall make recommendations based on the findings of the committee and report them to the general assembly and the governor by July 1, 2016.

6. The provisions of this section shall expire on January 1, 2017.

Approved June 19, 2015

HB 361 [HB 361]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the third week of February as "Engineer Awareness Week" in Missouri

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of engineer awareness week in Missouri.

SECTION

A. Enacting clause.

9.144. Third week of February, Engineer Awareness Week.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.144, to read as follows:

9.144. THIRD WEEK OF FEBRUARY, ENGINEER AWARENESS WEEK. — **The third week of February is hereby designated as "Engineer Awareness Week" in the state of Missouri. The citizens of this state are encouraged to observe the week with appropriate activities and events to promote the engineering discipline to students, expand public recognition of the engineering profession, and celebrate engineering accomplishments.**

Approved July 6, 2015

HB 384 [SS HB 384]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding taxation

AN ACT to repeal section 136.380, RSMo, and to enact in lieu thereof six new sections relating to taxation.

SECTION

- A. Enacting clause.
- 32.383. Tax amnesty period established, when — procedure — ineligibility for future tax amnesty, time period — expiration date.
- 32.385. Offset of indebtedness agreements with the federal government — definitions — director's powers — certification, contents — federal official's powers — refunds — reciprocal agreements.
- 37.650. Office of taxpayer advocate established — appointment, term, duties — annual report.
- 136.375. Fair and consistent application of Missouri tax laws.
- 136.380. Identification number of department employee provided to taxpayer, when.
- 136.450. Study commission established, members, vacancies, meetings — duties and authority of commission — interim reports — termination date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 136.380, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 32.383, 32.385, 37.650, 136.375, 136.380, and 136.450, to read as follows:

32.383. TAX AMNESTY PERIOD ESTABLISHED, WHEN — PROCEDURE — INELIGIBILITY FOR FUTURE TAX AMNESTY, TIME PERIOD — EXPIRATION DATE. — **1.** Notwithstanding the provisions of any other law to the contrary, with respect to taxes administered by the department of revenue under this chapter and chapters 143, 144, and 147, an amnesty from the assessment or payment of all penalties, additions to tax, and interest shall apply with respect to unpaid taxes or taxes due and owing reported and paid in full from September 1, 2015, to November 30, 2015, regardless of whether previously assessed, except for penalties, additions to tax, and interest paid before September 1, 2015. The amnesty shall apply only to tax liabilities due or due but unpaid on or before December 31, 2014, and shall not extend to any taxpayer who at the time of payment is a party to any criminal investigations or to any civil or criminal litigation that is pending in any court of the United States or this state for nonpayment, delinquency, or fraud in relation to any state tax imposed by this state.

2. Upon written application by the taxpayer, on forms prescribed by the director of revenue, and upon compliance with the provisions of this section, the department of revenue shall not seek to collect any penalty, addition to tax, or interest that may be applicable. The department of revenue shall not seek civil or criminal prosecution for any taxpayer for the taxable period for which the amnesty has been granted unless subsequent investigation or audit shows that the taxpayer engaged in fraudulent or criminal conduct in applying for amnesty.

3. Amnesty shall be granted only to those taxpayers who have applied for amnesty within the period stated in this section, who have filed a tax return for each taxable period for which amnesty is requested, who have paid the entire balance by November 30, 2015, and who agree to comply with state tax laws for the next eight years from the date of the agreement. No taxpayer shall be entitled to a waiver of any penalty, addition to tax, or interest under this section unless full payment of the tax due is made in accordance with rules established by the director of revenue.

4. All taxpayers granted amnesty under this section shall in good faith comply with this state's tax laws for the eight years following the date of the amnesty agreement. If any such taxpayer fails to comply with all of this state's tax laws at any time during the eight years following the date of the agreement, all penalties, additions to tax, and interest that were waived under the amnesty agreement shall become due and owing immediately.

5. If a taxpayer is granted amnesty under this section, such taxpayer shall not be eligible to participate in any future amnesty for the same type of tax.

6. If a taxpayer elects to participate in the amnesty program established in this section as evidenced by full payment of the tax due as established by the director of revenue, that election shall constitute an express and absolute relinquishment of all administrative and judicial rights of appeal. No tax payment received under this section shall be eligible for refund or credit.

7. Nothing in this section shall be interpreted to disallow the department of revenue to adjust a taxpayer's tax return as a result of any state or federal audit.

8. All tax payments received as a result of the amnesty program established in this section, other than revenues earmarked by the Constitution of Missouri, this state's statutes, or subsection 9 of this section, shall be deposited in the tax amnesty fund created in subsection 9 of this section. Moneys in the fund shall only be expended for the following except that any excess monies not used for such purposes shall be deposited into the state general revenue fund:

(1) An increase in the rate of reimbursement to MO HealthNet providers for the fiscal year ending June 30, 2016, above the rate in effect for the fiscal year ending June 30, 2015; and

(2) An increase in the number of adults receiving dental coverage under MO HealthNet in the fiscal year ending June 30, 2016, above the number of adults receiving dental coverage in the fiscal year ending June 30, 2015.

9. There is hereby created in the state treasury the "Tax Amnesty Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180. Upon appropriation, money in the fund shall be used solely for the purpose provided in subsection 8 of this section. Any moneys remaining in the fund at the end of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

10. The department of revenue may enter into an agreement with a third-party vendor to provide collection services for eligible delinquent tax liabilities that the department has undertaken to collect under this section, and to assist with the administration of the amnesty program under which contingency and other fees may be payable to such approved vendor out of the revenues from the amnesty program.

11. The department may promulgate rules or issue administrative guidelines as are necessary to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

12. This section shall expire on December 31, 2023.

32.385. OFFSET OF INDEBTEDNESS AGREEMENTS WITH THE FEDERAL GOVERNMENT
— DEFINITIONS — DIRECTOR'S POWERS — CERTIFICATION, CONTENTS — FEDERAL OFFICIAL'S POWERS — REFUNDS — RECIPROCAL AGREEMENTS. — 1. As used in this section, the following terms shall mean:

(1) "Federal official", a unit or official of the federal government charged with the collection of nontax liabilities payable to the federal government under 31 U.S.C. Section 3716, as amended;

(2) "Nontax liability due the state", a liability certified to the director of revenue by a state agency and shall include, but shall not be limited to, fines, fees, penalties, and other

nontax assessments imposed by or payable to any state agency that is finally determined to be due and owing;

(3) "Offset agreement", the agreement authorized by this section;

(4) "Person", an individual, partnership, society, association, joint stock company, corporation, public corporation, or any public authority, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity whether appointed by a court or otherwise, and any combination of the foregoing;

(5) "Refund", an amount described as a refund of tax under the provisions of the state tax law that authorized its payment;

(6) "State agency", any department, division, board, commission, office, or other agency of the state of Missouri;

(7) "Vendor payment", any payment, other than a refund, made by the state to any person or entity, and shall include but shall not be limited to any expense reimbursement to an employee of the state; but shall not include a person's salary, wages, or pension.

2. The director of revenue and the commissioner of administration may jointly enter into a reciprocal collection and offset of indebtedness agreement with the federal government, under which the federal government will offset from federal payments to vendors, contractors, and taxpayers debt owed to the state of Missouri, and the state will offset from state tax refunds and from payments otherwise due to vendors and contractors providing goods or services to state departments, agencies, or other state agencies nontax debt owed to the federal government.

3. Under the offset agreement, the director of revenue may:

(1) Certify to a federal official the existence of a person's delinquent tax or nontax liability due the state owed by the person to any state agency;

(2) Request that the federal official withhold any eligible vendor payment to which the person is entitled; and

(3) Provide for the payment of the amount withheld to the state.

4. A certification by a state agency to the director of revenue and by the director of revenue to the federal official under the offset agreement shall include:

(1) The full name and address of the person and any other names known to be used by the person;

(2) The Social Security number or tax identification number;

(3) The amount of the tax or nontax liability;

(4) A statement that the debt is past due and legally enforceable in the amount certified; and

(5) Any other information required by federal statute or regulation applicable to the collection of the debt by offset of federal payments.

5. Under the offset agreement, a federal official may:

(1) Certify to the state of Missouri the existence of a person's delinquent nontax liability owed by the person to the federal government;

(2) Request that the state of Missouri withhold any refund and vendor payment to which the person is entitled;

(3) Certify and request the state of Missouri to withhold a refund or vendor payment only if the laws of the United States:

(a) Allow the state of Missouri to enter into a reciprocal agreement with the United States, under which the federal official would be authorized to offset federal payments to collect delinquent tax and nontax debts owed to the state; and

(b) Provide for the payment of the amount withheld to the state;

(4) Retain a portion of the proceeds of any collection setoff as provided under the offset agreement.

6. Under the offset agreement, a certification by a federal official to the state of Missouri shall include:

(1) The full name of the person and any other names known to be used by the person;

(2) The Social Security number or federal tax identification number;

(3) The amount of the nontax liability; and

(4) A statement that the debt is past due and legally enforceable in the amount certified.

7. If a person for whom a certification is received from a federal official is due a refund of Missouri tax or a vendor payment, the agreement may provide that the state of Missouri shall:

(1) Withhold a refund or vendor payment that is due a person whose name has been certified by a federal official;

(2) In accordance with the provisions of the offset agreement, notify the person of the amount withheld in satisfaction of a liability certified by a federal official;

(3) Pay to the federal official the lesser of:

(a) The entire refund or vendor payment; or

(b) The amount certified; and

(4) Pay any refund or vendor payment in excess of the certified amount to the person.

8. Notwithstanding any other provisions of law to the contrary, the director of revenue and the commissioner of administration shall have the authority to enter into reciprocal agreements with any other state which extends a like comity to this state to offset from state tax refunds and from payments otherwise due to vendors and contractors providing goods or services to state departments, agencies, or other state agencies nontax debt for debts due the other state that extends a like comity to this state.

37.650. OFFICE OF TAXPAYER ADVOCATE ESTABLISHED — APPOINTMENT, TERM, DUTIES — ANNUAL REPORT. — 1. There is hereby established within the department of revenue the "Office of Taxpayer Advocate", for the purpose of providing independent assistance to taxpayers.

2. The office shall be administered by the taxpayer advocate, who shall be appointed by the governor with the advice and consent of the senate. The taxpayer advocate shall hold office for a term of six years and shall continue to hold office until a successor has been duly appointed. The advocate shall act independently of the department of revenue in the performance of his or her duties. The department of revenue shall provide administrative support and staff as deemed necessary.

3. The office shall have the authority:

(1) To communicate with any taxpayer regarding any tax issues that the taxpayer is experiencing;

(2) To communicate with any employees of the department of revenue regarding a taxpayer's tax issues; and

(3) To have access to any records held by any department or agency regarding a taxpayer's tax issues.

4. For any information obtained from a state agency or entity under this section, the office of taxpayer advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the state agency or entity providing such information to the office of taxpayer advocate. For information obtained directly by the office of taxpayer advocate under this section, the office of taxpayer advocate shall be subject to the same disclosure restrictions and confidentiality requirements that apply to the department of revenue.

5. The office shall annually submit to the governor and the general assembly a detailed report on the work of the office of the taxpayer advocate. Such report shall include, but not be limited to, the number of taxpayer cases handled by the office and the disposition of such cases. The report shall also include any recommendation for changes

in tax laws or the operation of the department of revenue. The report filed by the office shall not be subject to review by any executive branch official.

136.375. FAIR AND CONSISTENT APPLICATION OF MISSOURI TAX LAWS. — Missouri taxpayers shall have the right to fair and consistent application of Missouri tax laws by the department of revenue.

136.380. IDENTIFICATION NUMBER OF DEPARTMENT EMPLOYEE PROVIDED TO TAXPAYER, WHEN. — [1. The director of revenue shall establish or designate within the department of revenue the "Office of Taxpayers' Ombudsman". Such office shall be available to answer taxpayer questions and help solve taxpayer grievances. The telephone number, facsimile number and address of the taxpayers' ombudsman shall be disseminated to the general public as required in subsection 2 of section 136.355. Such office shall be created from existing personnel or can be staffed from appropriations made for such purpose.

2.] Any employee of the department of revenue which communicates with an individual taxpayer either in writing or by telephone shall provide the taxpayer with an identifying number associated with the employee. The director may develop the identifying procedure by policy.

136.450. STUDY COMMISSION ESTABLISHED, MEMBERS, VACANCIES, MEETINGS — DUTIES AND AUTHORITY OF COMMISSION — INTERIM REPORTS — TERMINATION DATE. —

1. There is hereby established the "Study Commission on State Tax Policy" which shall be composed of the following members:

- (1) The members of the joint committee on tax policy established in section 21.810;
- (2) The state treasurer;
- (3) The state budget director;
- (4) The director of the department of revenue, but only if such person has been appointed by the governor with the advice and consent of the senate in accordance with article IV, section 51 of the Constitution of Missouri;
- (5) Three individuals representing the needs and concerns of individual taxpayers in this state, one of whom shall be appointed by the lieutenant governor, one of whom shall be appointed by the minority floor leader of the house of representatives, and one of whom shall be appointed by the minority floor leader of the senate;
- (6) A certified public accountant, who shall be appointed by the lieutenant governor in consultation with the Missouri Society of Certified Public Accountants;
- (7) An independent tax practitioner, who shall be appointed by the lieutenant governor in consultation with the Missouri Society of Accountants;
- (8) An individual with experience operating a business with a headquarters in this state and fewer than fifty employees, who shall be appointed by the speaker of the house of representatives;
- (9) An individual with experience operating a business with a headquarters in this state and at least fifty employees, who shall be appointed by the president pro tempore of the senate;
- (10) Two individuals with significant experience in state and local taxation, public or private budgeting and finance, or public services delivery, one of whom shall be appointed by the speaker of the house of representatives in consultation with the Missouri Association of Counties and the other appointed by the president pro tempore of the senate in consultation with Missouri Municipal League; and
- (11) A member of the Missouri Bar with knowledge of the tax laws of this state, including tax administration and compliance, who shall be appointed by the board of governors of the Missouri Bar.

2. Any vacancy on the commission shall be filled in the same manner as the original appointment. Any appointed member of the commission shall serve at the pleasure of the appointing authority. Commission members shall serve without compensation but shall

be entitled to reimbursement for actual and necessary expenses incurred in the performance of their official duties.

3. The commission shall meet in the capitol building within ten days after its creation and organize by selecting a chair and vice chair from its members. After its organization, the commission shall adopt an agenda establishing at least five hearing dates. The hearings shall be held in different geographic regions of the state and open to the public. Additional meetings may be scheduled and held as often as the chair deems advisable. A majority of the members shall constitute a quorum.

4. It shall be the duty of the commission:

(1) To make a complete, detailed review and study of the tax structure of the state and its political subdivisions, including tax sources, the impact of taxes, collection procedures, administrative regulations, and all other factors pertinent to the fiscal operation of the state;

(2) To identify the strengths and weaknesses of state tax laws, and develop a broad range of improvements that could be made to modernize the tax system, maximize economic development and growth, and maintain necessary government services at an appropriate level;

(3) To investigate measures and methods to simplify state tax law, improve tax compliance, and reduce administrative costs; and

(4) To examine and study any other aspects of state and local government which may be related to the tax structure of the state.

5. In order to carry out its duties and responsibilities under this section, the commission shall have the authority to:

(1) Consult with public and private universities and academies, public and private organizations, and private citizens in the performance of its duties;

(2) Within the limits of appropriations made for such purpose, employ consultants or others to assist the commission in its work, or contract with public and private entities for analysis and study of current or proposed changes to state and local tax policy; and

(3) Make reasonable requests for staff assistance from the research and appropriations staffs of the house of representatives and senate and the committee on legislative research, as well as the office of administration and the department of revenue.

6. All state agencies and political subdivisions of the state responsible for the administration of tax policies shall cooperate with and assist the commission in the performance of its duties and shall make available all books, records, and information requested, except such books, records, and information as are by law declared confidential in nature, including individually identifiable information regarding a specific taxpayer.

7. The commission may issue interim reports as it deems fit, but it shall provide the governor and the general assembly with reports of its findings and recommendations for legal and administrative changes, along with any proposed legislation the commission recommends for adoption by the general assembly. A preliminary report shall be due by December 31, 2016. A final report shall be due December 31, 2017.

8. The commission shall cease all activities by January 1, 2018. This section shall expire August 28, 2018.

Approved April 27, 2015

HB 385 [HCS HB 385]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Defines "correspondence" with regard to real estate brokers

AN ACT to repeal section 339.010, RSMo, and to enact in lieu thereof one new section relating to real estate transactions.

SECTION

A. Enacting clause.

339.010. Definitions — inapplicability of chapter.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 339.010, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 339.010, to read as follows:

339.010. DEFINITIONS — INAPPLICABILITY OF CHAPTER. — 1. A "real estate broker" is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, does, or attempts to do, any or all of the following:

- (1) Sells, exchanges, purchases, rents, or leases real estate;
- (2) Offers to sell, exchange, purchase, rent or lease real estate;
- (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;
- (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
- (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;
- (6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
- (7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;
- (8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;
- (9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;
- (10) Performs any of the foregoing acts on behalf of the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A "real estate salesperson" is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. A "real estate broker-salesperson" is any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation, domestic or foreign, who has a real estate broker license in good standing, who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned. A real estate broker-salesperson may not also operate as a real estate broker. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

4. The term "commission" as used in sections 339.010 to 339.180 and sections 339.710 to 339.860 means the Missouri real estate commission.

5. "Real estate" for the purposes of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and the real estate is situated in this state.

6. "Advertising" shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one or more licensees and the public, and shall include, but not be limited to, business cards, signs, insignias, letterheads, radio, television, newspaper and magazine ads, internet advertising, websites, display or group ads in telephone directories, and billboards.

7. **"Correspondence" shall mean any written or electronic communication but shall exclude any communication that is ephemeral in nature. Ephemeral information includes text messages, instant message, and any other information or communication which is not designed to be retained or create a permanent record for use in any transaction calculated or intended to result in the sale, exchange, leasing, or rental of real estate.**

8. **"Sold", as used in sections 339.010 to 339.180 and sections 339.710 to 339.860, shall mean that the title to the real estate has been transferred or that the real estate has become subject to a bona fide sale contract or purchase agreement.**

9. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not apply to:

(1) Any person, partnership, limited partnership, limited liability company, association, professional corporation, or corporation who as owner, lessor, or lessee shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof;

(2) Any licensed attorney-at-law;

(3) An auctioneer employed by the owner of the property;

(4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;

(5) Any person employed or retained to manage real property by, for, or on behalf of the agent or the owner of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:

(a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

(b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;

(c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker or owner, including the execution of leases or rental agreements;

(d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;

(e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;

(f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;

(6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing official duties;

(7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;

(8) Any bank, trust company, savings and loan association, credit union, insurance company, mortgage banker, or farm loan association organized under the laws of this state or of the United States when engaged in the transaction of business on its own behalf and not for others;

(9) Any newspaper, magazine, periodical, internet site, internet communications, or any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission whereby the advertising of real estate is incidental to its operation;

(10) Any developer selling Missouri land owned by the developer;

(11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:

(a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;

(b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or

(c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; or

(12) Any neighborhood association, as that term is defined in section 441.500, that without compensation, either monetary or in-kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, internet site, or other medium.

Approved June 3, 2015

HB 391 [HB 391]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the notice requirements for automobile insurance cancellations or refusals

AN ACT to repeal sections 379.118 and 379.120, RSMo, and to enact in lieu thereof two new sections relating to automobile insurance notice requirements.

SECTION

A. Enacting clause.

379.118. Notice of cancellation and renewals, due when — reinstatement, when.

379.120. Explanation of refusal to write a policy, how given, contents.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 379.118 and 379.120, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 379.118 and 379.120, to read as follows:

379.118. NOTICE OF CANCELLATION AND RENEWALS, DUE WHEN — REINSTATEMENT, WHEN. — 1. If any insurer proposes to cancel or to refuse to renew a policy of automobile insurance delivered or issued for delivery in this state except at the request of the named insured

or for nonpayment of premium, it shall, on or before thirty days prior to the proposed effective date of the action, send written notice [by certificate of mailing] of its intended action to the named insured at his last known address. **Notice shall be sent by United States Postal Service certificate of mailing, first class mail using Intelligent Mail barcode (IMb), or another mail tracking method used, approved, or accepted by the United States Postal Service.** Where cancellation is for nonpayment of premium at least ten days' notice of cancellation shall be given and such notice shall contain the following notice or substantially similar in bold conspicuous type: "THIS POLICY IS CANCELLED EFFECTIVE AT THE DATE AND TIME INDICATED IN THIS NOTICE. THIS IS THE FINAL NOTICE OF CANCELLATION WE WILL SEND PRIOR TO THE EFFECTIVE DATE AND TIME OF CANCELLATION INDICATED IN THIS NOTICE.". The notice shall state:

- (1) The action taken;
- (2) The effective date of the action;
- (3) The insurer's actual reason for taking such action, the statement of reason to be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morals", or "violation or accident record" shall not suffice to meet the requirements of this subdivision;
- (4) That the insured may be eligible for insurance through the assigned risk plan if his insurance is to be cancelled.

2. Issuance of a notice of cancellation under subsection 1 of this section constitutes a present and unequivocal act of cancellation of the policy.

3. An insurer may reinstate a policy cancelled under subsection 1 of this section at any time after the notice of cancellation is issued if the reason for the cancellation is remedied. An insurer may send communications to the insured, including but not limited to billing notices for past due premium, offers to reinstate the policy if past due premium is paid, notices confirming cancellation of the policy, or billing notices for payment of earned but unpaid premium. The fact that a policy may be so reinstated or any such communication may be made does not invalidate or void any cancellation effectuated under subsection 1 of this section or defeat the present and unequivocal nature of acts of cancellation as described under subsection 2 of this section.

4. An insurer shall send an insured written notice of an automobile policy renewal at least fifteen days prior to the effective date of the new policy. The notice shall be sent by first class mail or may be sent electronically if requested by the policyholder, and shall contain the insured's name, the vehicle covered, the total premium amount, and the effective date of the new policy. Any request for electronic delivery of renewal notices shall be designated on the application form signed by the applicant, made in writing by the policyholder, or made in accordance with sections 432.200 to 432.295. The insurer shall comply with any subsequent request by a policyholder to rescind authorization for electronic delivery and to elect to receive renewal notices by first class mail. Any delivery of a renewal notice by electronic means shall not constitute notice of cancellation of a policy even if such notice is included with the renewal notice.

379.120. EXPLANATION OF REFUSAL TO WRITE A POLICY, HOW GIVEN, CONTENTS. —

If any insurer refuses to write a policy of automobile insurance, it shall, within thirty days after such refusal, send a written explanation of such refusal to the applicant at his last known address [by certified mail or certificate of mailing]. **Notice shall be sent by United States Postal Service certified mail, certificate of mailing, first class mail using Intelligent Mail barcode (IMb), or another mail tracking method used, approved, or accepted by the United States Postal Service.** The explanation shall state:

- (1) The insurer's actual reason for refusing to write the policy, the statement of reason to be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without further inquiry. Generalized terms such as "personal habits",

"living conditions", "poor morals", or "violation or accident record" shall not suffice to meet the requirements of this subdivision;

(2) That the applicant may be eligible for insurance through the assigned risk plan if other insurance is not available.

Approved June 3, 2015

HB 400 [HB 400]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the month of November each year as "Epilepsy Awareness Month"

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of epilepsy awareness month.

SECTION

A. Enacting clause.

9.183. Epilepsy awareness month designated for the month of November.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.183, to read as follows:

9.183. EPILEPSY AWARENESS MONTH DESIGNATED FOR THE MONTH OF NOVEMBER. — The month of November shall be designated as "Epilepsy Awareness Month" in Missouri. The citizens of the state of Missouri are encouraged to participate in appropriate activities and events to increase awareness of epilepsy and its related symptoms.

Approved July 2, 2015

HB 402 [HB 402]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the first full week before Memorial Day as "Safe Boating Week"

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to Missouri Safe Boating Week.

SECTION

A. Enacting clause.

9.145. Missouri safe boating week designated for the first full week of May before Memorial Day.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.145, to read as follows:

9.145. MISSOURI SAFE BOATING WEEK DESIGNATED FOR THE FIRST FULL WEEK OF MAY BEFORE MEMORIAL DAY. — **The first full week of May before Memorial Day is hereby designated as "Missouri Safe Boating Week". The citizens of this state are encouraged to observe the week with appropriate activities and events.**

Approved July 6, 2015

HB 403 [SCS HB 403]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates Missouri as a Purple Heart State

AN ACT to repeal section 301.451, RSMo, and to enact in lieu thereof two new sections relating to veterans awarded the Purple Heart medal.

SECTION

- A. Enacting clause.
- 42.045. Missouri designated as a Purple Heart State.
- 301.451. Purple Heart medal, special license plates.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 301.451, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 42.045 and 301.451, to read as follows:

42.045. MISSOURI DESIGNATED AS A PURPLE HEART STATE. — **In order to honor our combat wounded veterans for their service and sacrifice, Missouri shall hereby be designated as a "Purple Heart State".**

301.451. PURPLE HEART MEDAL, SPECIAL LICENSE PLATES. — Any person who has been awarded the purple heart medal may apply for special motor vehicle license plates for any vehicle he or she owns, either solely or jointly, other than commercial vehicles weighing over twelve thousand pounds. Any such person shall make application for the special license plates on a form provided by the director of revenue and furnish such proof as a recipient of the purple heart medal as the director may require. The director shall then issue license plates bearing letters or numbers or a combination thereof, with the words "PURPLE HEART" in place of the words "SHOW-ME STATE" in a form prescribed by the advisory committee established in section 301.129. Such license plates shall be made with fully reflective material with a common color scheme and design, shall be clearly visible at night, and shall be aesthetically attractive, as prescribed by section 301.130. There shall be no fee in addition to regular registration fees for the [initial set of] **purple heart license** plates issued to the applicant[, however, there shall be an additional fee charged for each subsequent set of special purple heart license plates issued equal to the fee charged for personalized license plates, but the additional fee shall only have to be paid once by the qualified applicant at the time of initial application for the additional set of plates]. There shall be no limit on the number of license plates any person qualified under this section may obtain so long as each set of license plates issued under this section is issued for vehicles owned solely or jointly by such person. License plates issued under the provisions of this section shall not be transferable to any other person except that any registered co-owner of the motor vehicle shall be entitled to operate the motor vehicle for the duration of the year licensed in the event of the death of the qualified person.

Approved July 13, 2015

HB 404 [HB 404]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the week in which May 15 falls as "Missouri's Peace Officers Memorial Week"

AN ACT to repeal section 9.120, RSMo, and to enact in lieu thereof one new section relating to Missouri's Peace Officers Memorial Week.

SECTION

- A. Enacting clause.
- 9.120. Week of May 15, Peace Officers Memorial Week.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 9.120, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 9.120, to read as follows:

9.120. WEEK OF MAY 15, PEACE OFFICERS MEMORIAL WEEK. — May fifteenth of every year shall be known and designated as "Missouri's Peace Officers Memorial Day", **and the week in which that date falls shall be known and designated as "Missouri's Peace Officers Memorial Week"**. It shall be a day **and week** on which to commemorate the sacrifices of the federal, state, county and municipal peace officers who have been killed or disabled in the performance of their duties. The United States flag and the Missouri state flag shall be flown at half-staff on all government buildings on Missouri's peace officers memorial day.

Approved July 6, 2015

HB 501 [HB 501]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires course materials relating to sexual education to contain information regarding sexual predators, online predators, and the consequences of inappropriate text messaging

AN ACT to repeal section 170.015, RSMo, and to enact in lieu thereof one new section relating to course materials relating to human sexuality.

SECTION

- A. Enacting clause.
- 170.015. Human sexuality and sexually transmitted diseases, instruction in, requirements — policies, school boards' duties — certain course materials on human sexuality prohibited, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 170.015, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 170.015, to read as follows:

170.015. HUMAN SEXUALITY AND SEXUALLY TRANSMITTED DISEASES, INSTRUCTION IN, REQUIREMENTS—POLICIES, SCHOOL BOARDS' DUTIES—CERTAIN COURSE MATERIALS ON HUMAN SEXUALITY PROHIBITED, WHEN. — 1. Any course materials and instruction relating to human sexuality and sexually transmitted diseases shall be medically and factually accurate and shall:

(1) Present abstinence from sexual activity as the preferred choice of behavior in relation to all sexual activity for unmarried pupils because it is the only method that is one hundred percent effective in preventing pregnancy, sexually transmitted diseases and the emotional trauma associated with adolescent sexual activity, and advise students that teenage sexual activity places them at a higher risk of dropping out of school because of the consequences of sexually transmitted diseases and unplanned pregnancy;

(2) Stress that sexually transmitted diseases are serious, possible, health hazards of sexual activity. Pupils shall be provided with the latest medical information regarding exposure to human immunodeficiency virus, acquired immune deficiency syndrome (AIDS), human papilloma virus, hepatitis and other sexually transmitted diseases;

(3) Present students with the latest medically factual information regarding both the possible side effects and health benefits of all forms of contraception, including the success and failure rates for the prevention of pregnancy and sexually transmitted diseases; or shall present students with information on contraceptives and pregnancy in a manner consistent with the provisions of the federal abstinence education law, 42 U.S.C. Section 710;

(4) Include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual activity and the consequences of adolescent pregnancy, as well as the advantages of adoption, including the adoption of special needs children, and the processes involved in making an adoption plan;

(5) Teach skills of conflict management, personal responsibility and positive self-esteem through discussion and role-playing at appropriate grade levels to emphasize that the pupil has the power to control personal behavior. Pupils shall be encouraged to base their actions on reasoning, self-discipline, sense of responsibility, self-control, and ethical considerations, such as respect for one's self and others. Pupils shall be taught not to make unwanted physical and verbal sexual advances or otherwise exploit another person. Pupils shall be taught to resist unwanted sexual advances and other negative peer pressure;

(6) Advise pupils of the laws pertaining to their financial responsibility to children born in and out of wedlock and advise pupils of the provisions of chapter 566 pertaining to statutory rape;

(7) **Teach pupils about the dangers of sexual predators, including online predators when using electronic communication methods such as the internet, cell phones, text messages, chat rooms, email, and instant messaging programs. Pupils shall be taught how to behave responsibly and remain safe on the internet and the importance of having open communication with responsible adults and reporting any inappropriate situation, activity, or abuse to a responsible adult, and depending on intent and content, to local law enforcement, the Federal Bureau of Investigation, or the National Center for Missing and Exploited Children's CyberTipline; and**

(8) **Teach pupils about the consequences, both personal and legal, of inappropriate text messaging, even among friends.**

2. Policies concerning referrals and parental notification regarding contraception shall be determined by local school boards or charter schools, consistent with the provisions of section 167.611.

3. A school district or charter school which provides human sexuality instruction may separate students according to gender for instructional purposes.

4. The board of a school district or charter school shall determine the specific content of the district's or school's instruction in human sexuality, in accordance with subsections 1 to 3 of this section, and shall ensure that all instruction in human sexuality is appropriate to the age of the students receiving such instruction.

5. A school district or charter school shall notify the parent or legal guardian of each student enrolled in the district or school of:

- (1) The basic content of the district's or school's human sexuality instruction to be provided to the student; and
- (2) The parent's right to remove the student from any part of the district's or school's human sexuality instruction.

6. A school district or charter school shall make all curriculum materials used in the district's or school's human sexuality instruction available for public inspection pursuant to chapter 610 prior to the use of such materials in actual instruction.

7. No school district or charter school, or its personnel or agents, shall provide abortion services, or permit a person or entity to offer, sponsor, or furnish in any manner any course materials or instruction relating to human sexuality or sexually transmitted diseases to its students if such person or entity is a provider of abortion services.

8. As used in this section, the following terms mean:

- (1) "Abortion", the same meaning as such term is defined in section 188.015;
- (2) "Abortion services":
 - (a) Performing, inducing, or assisting in the performance or inducing of an abortion which is not necessary to save the life of the mother;
 - (b) Encouraging a patient to have an abortion or referring a patient for an abortion, which is not necessary to save the life of the mother; or
 - (c) Developing or dispensing drugs, chemicals, or devices intended to be used to induce an abortion which is not necessary to save the life of the mother.

Approved July 14, 2015

HB 511 [HB 511]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Adds a provision relating to annexation of property approved by a majority of the property owners

AN ACT to repeal section 72.401, RSMo, and to enact in lieu thereof one new section relating to annexation.

SECTION

- A. Enacting clause.
- 72.401. Law to be exclusive for boundary changes if commission established (St. Louis County) — procedure for boundary change — commission members, qualifications, appointment, vacancies — notice of ordinance establishing commission — list of appointees — terms — succession — conflict of interest — boundary adjustment and certain annexations not subject to commission review and not prohibited by existence of established unincorporated area, when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 72.401, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 72.401, to read as follows:

72.401. LAW TO BE EXCLUSIVE FOR BOUNDARY CHANGES IF COMMISSION ESTABLISHED (ST. LOUIS COUNTY) — PROCEDURE FOR BOUNDARY CHANGE — COMMISSION MEMBERS, QUALIFICATIONS, APPOINTMENT, VACANCIES — NOTICE OF ORDINANCE ESTABLISHING COMMISSION — LIST OF APPOINTEES — TERMS — SUCCESSION — CONFLICT OF INTEREST

— **BOUNDARY ADJUSTMENT AND CERTAIN ANNEXATIONS NOT SUBJECT TO COMMISSION REVIEW AND NOT PROHIBITED BY EXISTENCE OF ESTABLISHED UNINCORPORATED AREA, WHEN.** — 1. If a commission has been established [pursuant to section 72.400] **under sections 72.400 to 72.423** in any county with a charter form of government where fifty or more cities, towns and villages have been established, any boundary change within the county shall proceed solely and exclusively in the manner provided for by sections 72.400 to 72.423, notwithstanding any statutory provisions to the contrary concerning such boundary changes.

2. In any county with a charter form of government where fifty or more cities, towns and villages have been established, if the governing body of such county has by ordinance established a boundary commission, as provided in sections 72.400 to 72.423, then boundary changes in such county shall proceed only as provided in sections 72.400 to 72.423.

3. The commission shall be composed of eleven members as provided in this subsection. No member, employee or contractor of the commission shall be an elective official, employee or contractor of the county or of any political subdivision within the county or of any organization representing political subdivisions or officers or employees of political subdivisions. Each of the appointing authorities described in subdivisions (1) to (3) of this subsection shall appoint persons who shall be residents of their respective locality so described. The appointing authority making the appointments shall be:

(1) The chief elected officials of all municipalities wholly within the county which have a population of more than twenty thousand persons, who shall name two members to the commission as prescribed in this subsection each of whom is a resident of a municipality within the county of more than twenty thousand persons;

(2) The chief elected officials of all municipalities wholly within the county which have a population of twenty thousand or less but more than ten thousand persons, who shall name one member to the commission as prescribed in this subsection who is a resident of a municipality within the county with a population of twenty thousand or less but more than ten thousand persons;

(3) The chief elected officials of all municipalities wholly within the county which have a population of ten thousand persons or less, who shall name one member to the commission as prescribed in this subsection who is a resident of a municipality within the county with a population of ten thousand persons or less;

(4) An appointive body consisting of the director of the county department of planning, the president of the municipal league of the county, one additional person designated by the county executive, and one additional person named by the board of the municipal league of the county, which appointive body, acting by a majority of all of its members, shall name three members of the commission who are residents of the county; and

(5) The county executive of the county, who shall name four members of the commission, three of whom shall be from the unincorporated area of the county and one of whom shall be from the incorporated area of the county. The seat of a commissioner shall be automatically vacated when the commissioner changes his or her residence so as to no longer conform to the terms of the requirements of the commissioner's appointment. The commission shall promptly notify the appointing authority of such change of residence.

4. Upon the passage of an ordinance by the governing body of the county establishing a boundary commission, the governing body of the county shall, within ten days, send by United States mail written notice of the passage of the ordinance to the chief elected official of each municipality wholly or partly in the county.

5. Each of the appointing authorities described in subdivisions (1) to (4) of subsection 3 of this section shall meet within thirty days of the passage of the ordinance establishing the commission to compile its list of appointees. Each list shall be delivered to the county executive within forty-one days of the passage of such ordinance. The county executive shall appoint members within forty-five days of the passage of the ordinance. If a list is not submitted by the time specified, the county executive shall appoint the members using the criteria of subsection

3 of this section before the sixtieth day from the passage of the ordinance. At the first meeting of the commission appointed after the effective date of the ordinance, the commissioners shall choose by lot the length of their terms. Three shall serve for one year, two for two years, two for three years, two for four years, and two for five years. All succeeding commissioners shall serve for five years. Terms shall end on December thirty-first of the respective year. No commissioner shall serve more than two consecutive full terms. Full terms shall include any term longer than two years.

6. When a member's term expires, or if a member is for any reason unable to complete [his] **such member's** term, the respective appointing authority shall appoint such member's successor. Each appointing authority shall act to ensure that each appointee is secured accurately and in a timely manner, when a member's term expires or as soon as possible when a member is unable to complete [his] **such member's** term. A member whose term has expired shall continue to serve until [his] a successor is appointed and qualified.

7. The commission, its employees and subcontractors shall be subject to the regulation of conflicts of interest as defined in sections 105.450 to [105.498] **105.496** and to the requirements for open meetings and records under chapter 610.

8. Notwithstanding any provisions of law to the contrary, any boundary adjustment approved by the residential property owners and the governing bodies of the affected municipalities or the county, if involved, and any voluntary annexation approved by municipal ordinance provided that the municipality owns the area to be annexed, that the area is contiguous with the municipality, and that the area is utilized only for parks and recreation purposes, shall not be subject to commission review. Such a boundary adjustment or annexation is not prohibited by the existence of an established unincorporated area.

9. Any annexation of property or defined areas of properties approved by a majority of property owners residing thereon and by ordinance of any municipality that is a service provider for both the water and sanitary sewer within the municipality shall be effective as provided in the annexation ordinance and shall not be subject to commission review. Such annexation shall not be prohibited by the existence of an established unincorporated area.

Approved June 30, 2015

HB 514 [HB 514]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to tax increment financing

AN ACT to repeal section 99.845, RSMo, and to enact in lieu thereof two new sections relating to tax increment financing.

SECTION

A. Enacting clause.

99.845. Tax increment financing adoption — division of ad valorem taxes — payments in lieu of tax, deposit, inclusion and exclusion of current equalized assessed valuation for certain purposes, when — other taxes included, amount — new state revenues, disbursements — supplemental tax increment financing fund established, disbursement.

99.866. Blighted low-income housing site, financing agreement between state and St. Louis City for possible retention of federal geospatial intelligence jobs — limitation on amount.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 99.845, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 99.845 and 99.866, to read as follows:

99.845. TAX INCREMENT FINANCING ADOPTION — DIVISION OF AD VALOREM TAXES — PAYMENTS IN LIEU OF TAX, DEPOSIT, INCLUSION AND EXCLUSION OF CURRENT EQUALIZED ASSESSED VALUATION FOR CERTAIN PURPOSES, WHEN — OTHER TAXES INCLUDED, AMOUNT — NEW STATE REVENUES, DISBURSEMENTS — SUPPLEMENTAL TAX INCREMENT FINANCING FUND ESTABLISHED, DISBURSEMENT. — 1. A municipality, either at the time a redevelopment project is approved or, in the event a municipality has undertaken acts establishing a redevelopment plan and redevelopment project and has designated a redevelopment area after the passage and approval of sections 99.800 to 99.865 but prior to August 13, 1982, which acts are in conformance with the procedures of sections 99.800 to 99.865, may adopt tax increment allocation financing by passing an ordinance providing that after the total equalized assessed valuation of the taxable real property in a redevelopment project exceeds the certified total initial equalized assessed valuation of the taxable real property in the redevelopment project, the ad valorem taxes, and payments in lieu of taxes, if any, arising from the levies upon taxable real property in such redevelopment project by taxing districts and tax rates determined in the manner provided in subsection 2 of section 99.855 each year after the effective date of the ordinance until redevelopment costs have been paid shall be divided as follows:

(1) That portion of taxes, penalties and interest levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the initial equalized assessed value of each such taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid by the county collector to the respective affected taxing districts in the manner required by law in the absence of the adoption of tax increment allocation financing;

(2) (a) Payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property in the area selected for the redevelopment project and any applicable penalty and interest over and above the initial equalized assessed value of each such unit of property in the area selected for the redevelopment project shall be allocated to and, when collected, shall be paid to the municipal treasurer who shall deposit such payment in lieu of taxes into a special fund called the "Special Allocation Fund" of the municipality for the purpose of paying redevelopment costs and obligations incurred in the payment thereof. Beginning August 28, 2014, if the voters in a taxing district vote to approve an increase in such taxing district's levy rate for ad valorem tax on real property, any additional revenues generated within an existing redevelopment project area that are directly attributable to the newly voter-approved incremental increase in such taxing district's levy rate shall not be considered payments in lieu of taxes subject to deposit into a special allocation fund without the consent of such taxing district. Revenues will be considered directly attributable to the newly voter-approved incremental increase to the extent that they are generated from the difference between the taxing district's actual levy rate currently imposed and the maximum voter-approved levy rate at the time that the redevelopment project was adopted. Payments in lieu of taxes which are due and owing shall constitute a lien against the real estate of the redevelopment project from which they are derived and shall be collected in the same manner as the real property tax, including the assessment of penalties and interest where applicable. The municipality may, in the ordinance, pledge the funds in the special allocation fund for the payment of such costs and obligations and provide for the collection of payments in lieu of taxes, the lien of which may be foreclosed in the same manner as a special assessment lien as provided in section 88.861. No part of the current equalized assessed valuation of each lot, block, tract, or parcel of property in the area selected for the redevelopment project attributable to any increase above the total initial equalized assessed value of such properties shall be used in calculating the general state school aid formula provided for in section 163.031 until such time as all redevelopment costs have been paid as provided for in this section and section 99.850.

(b) Notwithstanding any provisions of this section to the contrary, for purposes of determining the limitation on indebtedness of local government pursuant to Article VI, Section 26(b) of the Missouri Constitution, the current equalized assessed value of the property in an area selected for redevelopment attributable to the increase above the total initial equalized assessed valuation shall be included in the value of taxable tangible property as shown on the last completed assessment for state or county purposes.

(c) The county assessor shall include the current assessed value of all property within the taxing district in the aggregate valuation of assessed property entered upon the assessor's book and verified pursuant to section 137.245, and such value shall be utilized for the purpose of the debt limitation on local government pursuant to Article VI, Section 26(b) of the Missouri Constitution;

(3) For purposes of this section, "levies upon taxable real property in such redevelopment project by taxing districts" shall not include the blind pension fund tax levied under the authority of Article III, Section 38(b) of the Missouri Constitution, or the merchants' and manufacturers' inventory replacement tax levied under the authority of subsection 2 of Section 6 of Article X of the Missouri Constitution, except in redevelopment project areas in which tax increment financing has been adopted by ordinance pursuant to a plan approved by vote of the governing body of the municipality taken after August 13, 1982, and before January 1, 1998.

2. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after July 12, 1990, and prior to August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest imposed by the municipality, or other taxing districts, which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, licenses, fees or special assessments other than payments in lieu of taxes and any penalty and interest thereon, or, effective January 1, 1998, taxes levied pursuant to section 94.660, for the purpose of public transportation, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund. Any provision of an agreement, contract or covenant entered into prior to July 12, 1990, between a municipality and any other political subdivision which provides for an appropriation of other municipal revenues to the special allocation fund shall be and remain enforceable.

3. In addition to the payments in lieu of taxes described in subdivision (2) of subsection 1 of this section, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after August 31, 1991, fifty percent of the total additional revenue from taxes, penalties and interest which are imposed by the municipality or other taxing districts, and which are generated by economic activities within the area of the redevelopment project over the amount of such taxes generated by economic activities within the area of the redevelopment project in the calendar year prior to the adoption of the redevelopment project by ordinance, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to section 70.500, taxes levied for the purpose of public transportation pursuant to section 94.660, taxes imposed on sales pursuant to subsection 2 of section 67.1712 for the purpose of operating and maintaining a metropolitan park and recreation district, licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, any sales tax imposed by a county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, for the purpose of sports stadium improvement or levied by such county under section 238.410 for the purpose

of the county transit authority operating transportation facilities, or for redevelopment plans and projects adopted or redevelopment projects approved by ordinance after August 28, 2013, taxes imposed on sales under and pursuant to section 67.700 or 650.399 for the purpose of emergency communication systems, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund. Beginning August 28, 2014, if the voters in a taxing district vote to approve an increase in such taxing district's sales tax or use tax, other than the renewal of an expiring sales or use tax, any additional revenues generated within an existing redevelopment project area that are directly attributable to the newly voter-approved incremental increase in such taxing district's levy rate shall not be considered economic activity taxes subject to deposit into a special allocation fund without the consent of such taxing district.

4. Beginning January 1, 1998, for redevelopment plans and projects adopted or redevelopment projects approved by ordinance and which have complied with subsections 4 to 12 of this section, in addition to the payments in lieu of taxes and economic activity taxes described in subsections 1, 2 and 3 of this section, up to fifty percent of the new state revenues, as defined in subsection 8 of this section, estimated for the businesses within the project area and identified by the municipality in the application required by subsection 10 of this section, over and above the amount of such taxes reported by businesses within the project area as identified by the municipality in their application prior to the approval of the redevelopment project by ordinance, while tax increment financing remains in effect, may be available for appropriation by the general assembly as provided in subsection 10 of this section to the department of economic development supplemental tax increment financing fund, from the general revenue fund, for distribution to the treasurer or other designated financial officer of the municipality with approved plans or projects.

5. The treasurer or other designated financial officer of the municipality with approved plans or projects shall deposit such funds in a separate segregated account within the special allocation fund established pursuant to section 99.805.

6. No transfer from the general revenue fund to the Missouri supplemental tax increment financing fund shall be made unless an appropriation is made from the general revenue fund for that purpose. No municipality shall commit any state revenues prior to an appropriation being made for that project. For all redevelopment plans or projects adopted or approved after December 23, 1997, appropriations from the new state revenues shall not be distributed from the Missouri supplemental tax increment financing fund into the special allocation fund unless the municipality's redevelopment plan ensures that one hundred percent of payments in lieu of taxes and fifty percent of economic activity taxes generated by the project shall be used for eligible redevelopment project costs while tax increment financing remains in effect. This account shall be separate from the account into which payments in lieu of taxes are deposited, and separate from the account into which economic activity taxes are deposited.

7. In order for the redevelopment plan or project to be eligible to receive the revenue described in subsection 4 of this section, the municipality shall comply with the requirements of subsection 10 of this section prior to the time the project or plan is adopted or approved by ordinance. The director of the department of economic development and the commissioner of the office of administration may waive the requirement that the municipality's application be submitted prior to the redevelopment plan's or project's adoption or the redevelopment plan's or project's approval by ordinance.

8. For purposes of this section, "new state revenues" means:

(1) The incremental increase in the general revenue portion of state sales tax revenues received pursuant to section 144.020, excluding sales taxes that are constitutionally dedicated, taxes deposited to the school district trust fund in accordance with section 144.701, sales and use taxes on motor vehicles, trailers, boats and outboard motors and future sales taxes earmarked by law. In no event shall the incremental increase include any amounts attributable to retail sales

unless the municipality or authority has proven to the Missouri development finance board and the department of economic development and such entities have made a finding that the sales tax increment attributable to retail sales is from new sources which did not exist in the state during the baseline year. The incremental increase in the general revenue portion of state sales tax revenues for an existing or relocated facility shall be the amount that current state sales tax revenue exceeds the state sales tax revenue in the base year as stated in the redevelopment plan as provided in subsection 10 of this section; or

(2) The state income tax withheld on behalf of new employees by the employer pursuant to section 143.221 at the business located within the project as identified by the municipality. The state income tax withholding allowed by this section shall be the municipality's estimate of the amount of state income tax withheld by the employer within the redevelopment area for new employees who fill new jobs directly created by the tax increment financing project.

9. Subsection 4 of this section shall apply only to **the following:**

(1) Blighted areas located in enterprise zones, pursuant to sections 135.200 to 135.256, blighted areas located in federal empowerment zones, or to blighted areas located in central business districts or urban core areas of cities which districts or urban core areas at the time of approval of the project by ordinance, provided that the enterprise zones, federal empowerment zones or blighted areas contained one or more buildings at least fifty years old; and

[(1)] (a) Suffered from generally declining population or property taxes over the twenty-year period immediately preceding the area's designation as a project area by ordinance; or

[(2)] (b) Was a historic hotel located in a county of the first classification without a charter form of government with a population according to the most recent federal decennial census in excess of one hundred fifty thousand and containing a portion of a city with a population according to the most recent federal decennial census in excess of three hundred fifty thousand;

(2) Blighted areas consisting solely of the site of a former automobile manufacturing plant located in any county with a charter form of government and with more than nine hundred fifty thousand inhabitants. For the purposes of this section, "former automobile manufacturing plant" means a redevelopment area containing a minimum of one hundred acres, and such redevelopment area was previously used primarily for the manufacture of automobiles but ceased such manufacturing after the 2007 calendar year; or

(3) Blighted areas consisting solely of the site of a former insurance company national service center containing a minimum of one hundred acres located in any county with a charter form of government and with more than nine hundred fifty thousand inhabitants.

10. The initial appropriation of up to fifty percent of the new state revenues authorized pursuant to [subsections 4 and 5] **subsection 4** of this section shall not be made to or distributed by the department of economic development to a municipality until all of the following conditions have been satisfied:

(1) The director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee have approved a tax increment financing application made by the municipality for the appropriation of the new state revenues. The municipality shall include in the application the following items in addition to the items in section 99.810:

(a) The tax increment financing district or redevelopment area, including the businesses identified within the redevelopment area;

(b) The base year of state sales tax revenues or the base year of state income tax withheld on behalf of existing employees, reported by existing businesses within the project area prior to approval of the redevelopment project;

(c) The estimate of the incremental increase in the general revenue portion of state sales tax revenue or the estimate for the state income tax withheld by the employer on behalf of new employees expected to fill new jobs created within the redevelopment area after redevelopment;

(d) The official statement of any bond issue pursuant to this subsection after December 23, 1997;

(e) An affidavit that is signed by the developer or developers attesting that the provisions of subdivision (1) of subsection 1 of section 99.810 have been met and specifying that the redevelopment area would not be reasonably anticipated to be developed without the appropriation of the new state revenues;

(f) The cost-benefit analysis required by section 99.810 includes a study of the fiscal impact on the state of Missouri; [and]

(g) The statement of election between the use of the incremental increase of the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area;

(h) The name, street and mailing address, and phone number of the mayor or chief executive officer of the municipality;

(i) The street address of the development site;

(j) The three-digit North American Industry Classification System number or numbers characterizing the development project;

(k) The estimated development project costs;

(l) The anticipated sources of funds to pay such development project costs;

(m) Evidence of the commitments to finance such development project costs;

(n) The anticipated type and term of the sources of funds to pay such development project costs;

(o) The anticipated type and terms of the obligations to be issued;

(p) The most recent equalized assessed valuation of the property within the development project area;

(q) An estimate as to the equalized assessed valuation after the development project area is developed in accordance with a development plan;

(r) The general land uses to apply in the development area;

(s) The total number of individuals employed in the development area, broken down by full-time, part-time, and temporary positions;

(t) The total number of full-time equivalent positions in the development area;

(u) The current gross wages, state income tax withholdings, and federal income tax withholdings for individuals employed in the development area;

(v) The total number of individuals employed in this state by the corporate parent of any business benefitting from public expenditures in the development area, and all subsidiaries thereof, as of December thirty-first of the prior fiscal year, broken down by full-time, part-time, and temporary positions;

(w) The number of new jobs to be created by any business benefitting from public expenditures in the development area, broken down by full-time, part-time, and temporary positions;

(x) The average hourly wage to be paid to all current and new employees at the project site, broken down by full-time, part-time, and temporary positions;

(y) For project sites located in a metropolitan statistical area, as defined by the federal Office of Management and Budget, the average hourly wage paid to nonmanagerial employees in this state for the industries involved at the project, as established by the United States Bureau of Labor Statistics;

(z) For project sites located outside of metropolitan statistical areas, the average weekly wage paid to nonmanagerial employees in the county for industries involved at the project, as established by the United States Department of Commerce;

(aa) A list of other community and economic benefits to result from the project;

(bb) A list of all development subsidies that any business benefitting from public expenditures in the development area has previously received for the project, and the name of any other granting body from which such subsidies are sought;

(cc) A list of all other public investments made or to be made by this state or units of local government to support infrastructure or other needs generated by the project for which the funding pursuant to this section is being sought;

(dd) A statement as to whether the development project may reduce employment at any other site, within or without the state, resulting from automation, merger, acquisition, corporate restructuring, relocation, or other business activity;

(ee) A statement as to whether or not the project involves the relocation of work from another address and if so, the number of jobs to be relocated and the address from which they are to be relocated;

(ff) A list of competing businesses in the county containing the development area and in each contiguous county;

(gg) A market study for the development area;

(hh) A certification by the chief officer of the applicant as to the accuracy of the development plan;

(2) The methodologies used in the application for determining the base year and determining the estimate of the incremental increase in the general revenue portion of the state sales tax revenues or the state income tax withheld by employers on behalf of new employees who fill new jobs created in the redevelopment area shall be approved by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee. Upon approval of the application, the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee shall issue a certificate of approval. The department of economic development may request the appropriation following application approval;

(3) The appropriation shall be either a portion of the estimate of the incremental increase in the general revenue portion of state sales tax revenues in the redevelopment area or a portion of the estimate of the state income tax withheld by the employer on behalf of new employees who fill new jobs created in the redevelopment area as indicated in the municipality's application, approved by the director of the department of economic development or his or her designee and the commissioner of the office of administration or his or her designee. At no time shall the annual amount of the new state revenues approved for disbursements from the Missouri supplemental tax increment financing fund exceed thirty-two million dollars; **provided, however, that such thirty-two million dollar cap shall not apply to redevelopment plans or projects initially listed by name in the applicable appropriations bill after August 28, 2015, which involve either:**

(a) A former automobile manufacturing plant; or

(b) The retention of a federal employer employing over two thousand geospatial intelligence jobs.

At no time shall the annual amount of the new state revenues for disbursements from the Missouri supplemental tax increment financing fund for redevelopment plans and projects eligible under the provisions of paragraph (a) of this subdivision exceed four million dollars in the aggregate. At no time shall the annual amount of the new state revenues for disbursements from the Missouri supplemental tax increment financing fund for redevelopment plans and projects eligible under the provisions of paragraph (b) of this subdivision exceed twelve million dollars in the aggregate. To the extent a redevelopment plan or project independently meets the eligibility criteria set forth in both paragraphs (a) and (b) of this subdivision, then at no such time shall the annual amount of new state revenues for disbursements from the Missouri supplemental tax increment financing fund for such eligible redevelopment plan or project exceed twelve million dollars in the aggregate;

(4) Redevelopment plans and projects receiving new state revenues shall have a duration of up to fifteen years, unless prior approval for a longer term is given by the director of the

department of economic development or his or her designee and the commissioner of the office of administration or his or her designee; except that, in no case shall the duration exceed twenty-three years.

11. In addition to the areas authorized in subsection 9 of this section, the funding authorized pursuant to subsection 4 of this section shall also be available in a federally approved levee district, where construction of a levee begins after December 23, 1997, and which is contained within a county of the first classification without a charter form of government with a population between fifty thousand and one hundred thousand inhabitants which contains all or part of a city with a population in excess of four hundred thousand or more inhabitants.

12. There is hereby established within the state treasury a special fund to be known as the "Missouri Supplemental Tax Increment Financing Fund", to be administered by the department of economic development. The department shall annually distribute from the Missouri supplemental tax increment financing fund the amount of the new state revenues as appropriated as provided in the provisions of [subsections 4 and 5] **subsection 4** of this section if and only if the conditions of subsection 10 of this section are met. The fund shall also consist of any gifts, contributions, grants or bequests received from federal, private or other sources. Moneys in the Missouri supplemental tax increment financing fund shall be disbursed per project pursuant to state appropriations.

13. Redevelopment project costs may include, at the prerogative of the state, the portion of salaries and expenses of the department of economic development and the department of revenue reasonably allocable to each redevelopment project approved for disbursements from the Missouri supplemental tax increment financing fund for the ongoing administrative functions associated with such redevelopment project. Such amounts shall be recovered from new state revenues deposited into the Missouri supplemental tax increment financing fund created under this section.

14. For redevelopment plans or projects approved by ordinance that result in net new jobs from the relocation of a national headquarters from another state to the area of the redevelopment project, the economic activity taxes and new state tax revenues shall not be based on a calculation of the incremental increase in taxes as compared to the base year or prior calendar year for such redevelopment project, rather the incremental increase shall be the amount of total taxes generated from the net new jobs brought in by the national headquarters from another state. In no event shall this subsection be construed to allow a redevelopment project to receive an appropriation in excess of up to fifty percent of the new state revenues.

99.866. BLIGHTED LOW-INCOME HOUSING SITE, FINANCING AGREEMENT BETWEEN STATE AND ST. LOUIS CITY FOR POSSIBLE RETENTION OF FEDERAL GEOSPATIAL INTELLIGENCE JOBS—LIMITATION ON AMOUNT. — **The state of Missouri, acting through the department of economic development and the office of administration, and any city not within a county, acting directly, through an affiliated entity or through such city's land clearance for redevelopment authority, may enter into a financing agreement relating to the redevelopment of an area contiguous with a former public housing site that has been declared blighted under Missouri law and which may lead to the retention within such city of, and relocation to such blighted area within such city by, a federal employer employing over two thousand geospatial intelligence jobs. Such financing agreement may provide for the appropriation and disbursement of state withholding tax revenues and city tax revenues generated from such employer for up to thirty years to fund costs associated with the retention of such employer; provided, however, that the annual amount of the state appropriation contemplated by this section plus any appropriation of state withholding tax revenues related to such employer from the Missouri supplemental tax increment financing fund pursuant to section 99.845 shall not exceed twelve million dollars per year and shall maintain a positive net fiscal impact for the state over the term. If the state of Missouri income tax rates are reduced or replaced after August 28, 2015, the**

department of economic development shall request an appropriation from the general assembly of an amount sufficient to offset any reduction in available withholding tax revenues resulting directly from such tax rate reduction or replacement, which in no event shall exceed the amounts that would have been received had the state income tax rates not been reduced or replaced.

Approved June 22, 2015

HB 515 [HB 515]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding public retirement systems

AN ACT to repeal sections 86.200, 86.207, 86.213, 86.237, 86.250, 86.251, 86.257, 86.263, 86.270, 86.320, 86.1110, 86.1270, 86.1500, and 86.1630, RSMo, and to enact in lieu thereof fourteen new sections relating to local government retirement systems.

SECTION

- A. Enacting clause.
- 86.200. Definitions.
- 86.207. Members of system, who are — reserve officer not a member.
- 86.213. Board of trustees to administer — members of board, selection — terms.
- 86.237. Legal adviser — medical board — duties.
- 86.250. Members may retire when — application to board to be made when — compulsory retirement.
- 86.251. Deferred retirement option plan — election — deposit of retirement allowance in DROP account — termination of participation, when — forms of payment — effect of participation — death of member, payment of funds — accidental disability retirement allowance, effect — interest, amount — approval by IRS — election for monthly survivor annuity, when.
- 86.257. Disability retirement allowance granted, when — periodic medical examinations required, when — cessation of disability benefit, when.
- 86.263. Service-connected accidental disability retirement for active service members, requirements — periodic examinations required, when — cessation of benefits, when.
- 86.270. Investigation and examination of applicants for disability benefits.
- 86.320. Contributions, rate of — deduction from compensation.
- 86.1110. Military leave of absence, effect of — service credit for military service, when.
- 86.1270. Retirement plan deemed qualified plan under federal law — board to administer plan as a qualified plan — vesting of benefits — distributions.
- 86.1500. Military service, effect on creditable service — election to purchase creditable service, when — service credit for military service, when.
- 86.1630. Tax-exempt status of plan to be maintained — assets of system to be held in trust — member benefits vested, when — distribution of benefits.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 86.200, 86.207, 86.213, 86.237, 86.250, 86.251, 86.257, 86.263, 86.270, 86.320, 86.1110, 86.1270, 86.1500, and 86.1630, RSMo, are repealed and fourteen new sections enacted in lieu thereof, to be known as sections 86.200, 86.207, 86.213, 86.237, 86.250, 86.251, 86.257, 86.263, 86.270, 86.320, 86.1110, 86.1270, 86.1500, and 86.1630 to read as follows:

86.200. DEFINITIONS. — The following words and phrases as used in sections 86.200 to 86.366, unless a different meaning is plainly required by the context, shall have the following meanings:

(1) "Accumulated contributions", the sum of all mandatory contributions deducted from the compensation of a member and credited to the member's individual account, together with members' interest thereon;

(2) "Actuarial equivalent", a benefit of equal value when computed upon the basis of mortality tables and interest assumptions adopted by the board of trustees;

(3) "Average final compensation":

(a) With respect to a member who earns no creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last three years of creditable service as a police officer, or if the member has had less than three years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(b) With respect to a member who is not participating in the DROP pursuant to section 86.251 on October 1, 2001, who did not participate in the DROP at any time before such date, and who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years of creditable service as a policeman, or if the member has had less than two years of creditable service, then the average earnable compensation of the member's entire period of creditable service;

(c) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer for reasons other than death or disability before earning at least two years of creditable service after such return, the portion of the member's benefit attributable to creditable service earned before DROP entry shall be determined using average final compensation as defined in paragraph (a) of this subdivision; and the portion of the member's benefit attributable to creditable service earned after return to active participation in the system shall be determined using average final compensation as defined in paragraph (b) of this subdivision;

(d) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in the DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and who terminates employment as a police officer after earning at least two years of creditable service after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision;

(e) With respect to a member who is participating in the DROP pursuant to section 86.251 on October 1, 2001, or whose participation in DROP ended before such date, who returns to active participation in the system pursuant to section 86.251, and whose employment as a police officer terminates due to death or disability after such return, the member's benefit attributable to all of such member's creditable service shall be determined using the member's average final compensation as defined in paragraph (b) of this subdivision; and

(f) With respect to the surviving spouse or surviving dependent child of a member who earns any creditable service on or after October 1, 2001, the average earnable compensation of the member during the member's last two years of creditable service as a police officer or, if the member has had less than two years of creditable service, the average earnable compensation of the member's entire period of creditable service;

(4) "Beneficiary", any person in receipt of a retirement allowance or other benefit;

(5) ["Board of police commissioners", any board of police commissioners, police commissioners and any other officials or boards now or hereafter authorized by law to employ and manage a permanent police force in such cities;

(6) "Board of trustees", the board provided in sections 86.200 to 86.366 to administer the retirement system;

[(7)] (6) "Creditable service", prior service plus membership service as provided in sections 86.200 to 86.366;

[(8)] (7) "DROP", the deferred retirement option plan provided for in section 86.251;

[(9)] (8) "Earnable compensation", the annual salary established under section 84.160 which a member would earn during one year on the basis of the member's rank or position plus any additional compensation for academic work and shift differential that may be provided by any official or board now or hereafter authorized by law to employ and manage a permanent police force in such cities. Such amount shall include the member's deferrals to a deferred compensation plan pursuant to Section 457 of the Internal Revenue Code or to a cafeteria plan pursuant to Section 125 of the Internal Revenue Code or, effective October 1, 2001, to a transportation fringe benefit program pursuant to Section 132(f)(4) of the Internal Revenue Code. Earnable compensation shall not include a member's additional compensation for overtime, standby time, court time, nonuniform time or unused vacation time. Notwithstanding the foregoing, the earnable compensation taken into account under the plan established pursuant to sections 86.200 to 86.366 with respect to a member who is a noneligible participant, as defined in this subdivision, for any plan year beginning on or after October 1, 1996, shall not exceed the amount of compensation that may be taken into account under Section 401(a)(17) of the Internal Revenue Code, as adjusted for increases in the cost of living, for such plan year. For purposes of this subdivision, a "noneligible participant" is an individual who first becomes a member on or after the first day of the first plan year beginning after the earlier of:

- (a) The last day of the plan year that includes August 28, 1995; or
- (b) December 31, 1995;

[(10)] (9) "Internal Revenue Code", the federal Internal Revenue Code of 1986, as amended;

[(11)] (10) "Mandatory contributions", the contributions required to be deducted from the salary of each member who is not participating in DROP in accordance with section 86.320;

[(12)] (11) "Medical board", the [board of three physicians of different disciplines] **health care organization** appointed by the trustees of the police retirement board and responsible for arranging and passing upon all medical examinations required under the provisions of sections 86.200 to 86.366, which [board] shall investigate all essential statements and certificates made by or on behalf of a member in connection with an application for disability retirement and shall report in writing to the board of trustees its conclusions and recommendations[, which can be based upon the opinion of a single member or that of an outside specialist if one is appointed, upon all the matters referred to such medical board];

[(13)] (12) "Member", a member of the retirement system as defined by sections 86.200 to 86.366;

[(14)] (13) "Members' interest", interest on accumulated contributions at such rate as may be set from time to time by the board of trustees;

[(15)] (14) "Membership service", service as a policeman rendered since last becoming a member, except in the case of a member who has served in the Armed Forces of the United States and has subsequently been reinstated as a policeman, in which case "membership service" means service as a policeman rendered since last becoming a member prior to entering such armed service;

[(16)] (15) "Plan year" or "limitation year", the twelve consecutive-month period beginning each October first and ending each September thirtieth;

[(17)] (16) "Policeman" or "police officer", any member of the police force of such cities who holds a rank in such police force;

[(18)] (17) "Prior service", all service as a policeman rendered prior to the date the system becomes operative or prior to membership service which is creditable in accordance with the provisions of sections 86.200 to 86.366;

[(19)] (18) "Reserve officer", any member of the police reserve force of such cities, armed or unarmed, who works less than full time, without compensation, and who, by his or her assigned function or as implied by his or her uniform, performs duties associated with those of a police officer and who currently receives a service retirement as provided by sections 86.200 to 86.366;

~~[(20)]~~ (19) "Retirement allowance", annual payments for life as provided by sections 86.200 to 86.366 which shall be payable in equal monthly installments or any benefits in lieu thereof granted to a member upon termination of employment as a police officer and actual retirement;

~~[(21)]~~ (20) "Retirement system", the police retirement system of the cities as defined in sections 86.200 to 86.366;

~~[(22)]~~ (21) "Surviving spouse", the surviving spouse of a member who was the member's spouse at the time of the member's death.

86.207. MEMBERS OF SYSTEM, WHO ARE — RESERVE OFFICER NOT A MEMBER. — 1. Except as provided herein, all persons who become policemen and all policemen who enter or reenter the service of [the] any city **not within a county** after the first day of October, 1957, become members as a condition of their employment and shall receive no pensions or retirement allowance from any other pension or retirement system supported wholly or in part by the city **not within a county** or the state of Missouri, nor shall they be required to make contributions under any other pension or retirement system of the city **not within a county** or the state of Missouri **for the same period of service**, anything to the contrary notwithstanding. Any employee of a city **not within a county** who is earning creditable service in a retirement plan established by said city under section 95.540 and subsequently becomes a policeman may elect to remain a member of said retirement plan and shall not be required to become a member of a police retirement system established under section 86.200. However, an employee of a city **not within a county** who is earning creditable service in a retirement plan established by said city under section 95.540 and who subsequently becomes a policeman may elect to transfer membership and creditable service to the police retirement system created under section 86.200. Such transfers are subject to the conditions and requirements contained in section 105.691 and are also subject to any existing agreements between the said retirement plans; provided however, transfers completed prior to January 1, 2016, shall occur without regard to the vesting requirements of the receiving plan contained in section 105.691. As part of the transfer process described herein, the respective retirement plans may require the employee to acknowledge and agree as a condition of transfer that any election made under this section is irrevocable, constitutes a waiver of any right to receive retirement and disability benefits except as provided by the police retirement system, and that plan terms may be modified in the future.

2. If any member ceases to be in service for more than one year unless the member has attained the age of fifty-five or has twenty years or more of creditable service, or if the member withdraws the member's accumulated contributions or if the member receives benefits under the retirement system or dies, the member thereupon ceases to be a member; except in the case of a member who has served in the Armed Forces of the United States and has subsequently been reinstated as a policeman. A member who has terminated employment as a police officer, has actually retired and is receiving retirement benefits under the system shall be considered a retired member.

3. A reserve officer shall not be considered a member of the system for the purpose of determining creditable service, nor shall any contributions be due. A reserve officer shall not be entitled to any benefits from the system other than those awarded when the reserve officer originally retired under section 86.250, nor shall service as a reserve officer prohibit distribution of those benefits.

86.213. BOARD OF TRUSTEES TO ADMINISTER — MEMBERS OF BOARD, SELECTION — TERMS. — 1. The general administration and the responsibility for the proper operation of the retirement system and for making effective the provisions of sections 86.200 to 86.366 are hereby vested in a board of trustees of nine persons. The board shall be constituted as follows:

(1) The comptroller of the city, ex officio. If the comptroller is absent from any meeting of the board of trustees for any cause whatsoever, the comptroller may be represented by either the deputy comptroller or the first assistant comptroller who in such case shall have full power to act as a member of the said board of trustees;

(2) Two members to be appointed by the mayor of the city to serve for a term of two years, except the mayor shall not appoint the police chief of the municipal police force[,] or the city's director of public safety[, or the president of the board of police commissioners of the city];

(3) Three members to be elected by the members of the retirement system of the city for a term of three years; provided, however, that the term of office of the first three members so elected shall begin immediately upon their election and one such member's term shall expire one year from the date the retirement system becomes operative, another such member's term shall expire two years from the date the retirement system becomes operative and the other such member's term shall expire three years from the date the retirement system becomes operative; provided, further, that such members shall be members of the system and hold office only while members of the system;

(4) Three members who shall be retired members of the retirement system to be elected by the retired members of the retirement system for a term of three years; except that, the term of office of the first two members so elected shall begin immediately upon their election and one such member's term shall expire two years from the date of election and the other such member's term shall expire three years from the date of election.

2. Any member elected chairman of the board of trustees may serve without term limitations.

3. Each commissioned elected trustee shall be granted travel time by the St. Louis metropolitan police department to attend any and all functions that have been authorized by the board of trustees of the police retirement system of St. Louis. Travel time, with compensation, for a trustee shall not exceed thirty days in any board fiscal year.

86.237. LEGAL ADVISER — MEDICAL BOARD — DUTIES. — 1. The board of trustees is authorized to use the city counselor of the specified cities as a legal advisor to the board of trustees and may also appoint an attorney-at-law or firm of attorneys-at-law to serve as the legal advisor and consultant to the board of trustees and to represent the system and the board of trustees in all legal proceedings.

2. The board of trustees shall designate a [medical director, who] **medical board which** shall [appoint physicians, including himself or herself if appropriate, as he or she deems necessary to] arrange for and pass upon all medical examinations required under the provisions of sections 86.200 to 86.366. Such [physicians] **medical board** shall investigate all essential statements as to physical or mental conditions made by or on behalf of a member in connection with an application for disability retirement and shall report in writing [their] **to the board of trustees its** conclusions and recommendations upon all the matters referred to them. [The medical director shall report in writing to the board of trustees conclusions and recommendations concerning all essential statements as to physical or mental conditions made by or on behalf of a member in connection with an application for disability retirement.]

86.250. MEMBERS MAY RETIRE WHEN — APPLICATION TO BOARD TO BE MADE WHEN — COMPULSORY RETIREMENT. — Retirement of a member on a service retirement allowance shall be made by the board of trustees as follows:

(1) Any member may terminate employment as a police officer and actually retire after completing twenty or more years of creditable service or attaining the age of fifty-five upon the member's written application to the board of trustees setting forth at what time, but not more than ninety days subsequent to the execution and filing of the application, the member desires to be retired;

(2) Any member in service who has attained the age of sixty-five shall be terminated as a police officer and actually retired forthwith provided that upon request of the [board] **chief** of police [commissioners] the board of trustees may permit such member to remain in service for periods of not to exceed one year from the date of the last request from the [board] **chief** of police [commissioners].

86.251. DEFERRED RETIREMENT OPTION PLAN — ELECTION — DEPOSIT OF RETIREMENT ALLOWANCE IN DROP ACCOUNT — TERMINATION OF PARTICIPATION, WHEN — FORMS OF PAYMENT — EFFECT OF PARTICIPATION — DEATH OF MEMBER, PAYMENT OF FUNDS — ACCIDENTAL DISABILITY RETIREMENT ALLOWANCE, EFFECT — INTEREST, AMOUNT — APPROVAL BY IRS — ELECTION FOR MONTHLY SURVIVOR ANNUITY, WHEN. —

1. The board of trustees may develop and establish a deferred retirement option plan (DROP) in which members who are eligible for retirement but who have not terminated employment as police officers and who have not actually retired may participate. The DROP shall be designed to allow members with at least twenty years of creditable service or who have attained the age of fifty-five who have achieved eligibility for retirement and are entitled to a service retirement allowance and other benefits to postpone actual retirement, continue active employment and accumulate a deferred receipt of the service retirement allowance. No one shall participate in the DROP for a period exceeding five years.

2. Any member who has at least twenty years of creditable service or has attained the age of fifty-five may elect in writing before retirement to participate in the DROP. A member electing to participate in the DROP shall postpone actual retirement, shall continue in active employment and shall not receive any direct retirement allowance payments or benefits during the period of participation.

3. Upon the start of the participation in the DROP, the member shall cease to make any mandatory contributions to the system. No contribution shall be required by the city into the DROP account. During the period of participation in the DROP, the amount that the member would have received as a service retirement allowance if the member had actually retired instead of entering DROP shall be deposited monthly in the member's DROP account which shall be established in the member's name by the board of trustees. The member's service retirement allowance shall not be adjusted for any cost-of-living increases for any period prior to the member's termination of employment as a police officer and actual retirement. Cost-of-living increases, if any, for any period following the member's termination of employment as a police officer and actual retirement shall be applied only to monthly service retirement payments made following termination of employment as a police officer and actual retirement. Service earned during the period of participation in the DROP shall not be creditable service and shall not be counted in determination of any service retirement allowance or surviving spouse's or dependents' benefits. Compensation paid during the period of participation in the DROP shall not be earnable compensation and shall not be counted in the determination of any service retirement allowance or surviving spouse's or dependent's benefits. The member's service retirement allowance shall be frozen as of the date the member enters DROP. Except as specifically provided in sections 86.200 to 86.366, the member's frozen service retirement allowance shall not increase while the member is participating in DROP or after the member's participation in DROP ends, and the member shall not share in any benefit improvement that is enacted or that becomes effective while such member is participating in the DROP.

4. A member shall cease participation in the DROP upon the termination of the member's employment as a police officer and actual retirement, or at the end of the five-year period commencing on the first day of the member's participation in the DROP, or as of the effective date], but in no event prior to October 1, 2001,] of the member's election to return to active participation in the system, whichever occurs first. A member's election to return to active participation in the system before the end of the five-year period commencing on the first day of participation in the DROP shall be made and shall become effective in accordance with

procedures established by the board of trustees], but in no event prior to October 1, 2001]. Upon the member's termination of employment as a police officer and actual retirement, the member shall elect to receive the value of the member's DROP account, in one of the following forms of payment:

(a) A lump sum payment; or

(b) Equal monthly installments over a ten-year period. Either form of payment should begin within thirty days after the member's notice to the board of trustees that the member has selected a particular option.

5. If a member who is participating in the DROP elects to return to active participation in the system or if a member who is participating in the DROP does not terminate employment and actually retires as a police officer in the city for which the retirement system was established pursuant to sections 86.200 to 86.366 at the end of the five-year period commencing on the first day of the member's participation in the DROP, the member shall return to active participation in the system and shall resume making mandatory contributions to the system effective as of the day after participation in the DROP ends [or, if later, October 1, 2001]. The board of trustees shall notify the [police commissioners] **chief of police** to begin deducting mandatory contributions from the member's salary and the member's employment period shall count as creditable service beginning as of the day the member returns to active participation.

6. In no event shall a member whose participation in DROP has ended for any reason be eligible to participate in DROP again.

7. Upon the member's termination of employment as a police officer and actual retirement, the member's mandatory contributions to the retirement system shall be paid to the member pursuant to subsection 4 of section 86.253.

8. If a member dies prior to termination of employment as a police officer and actual retirement while participating in the DROP or before the member has received full withdrawal of the amount in the member's DROP account under the installment optional payment form, the remaining balance of the member's DROP account shall be payable to the member's surviving spouse; or, if the member is then unmarried, to the member's dependent children in equal shares; or, if none, to the member's dependent mother or father; or, if none, to the member's designated beneficiary or, if no such beneficiary is then living, to the member's estate. Payment shall be made in a lump sum within sixty days after receipt by the board of trustees of evidence and proof of the death of a member. In addition, the member's mandatory contributions, if any, that were not already paid to the member pursuant to subsection 4 of section 86.253 shall be paid to the member's surviving spouse pursuant to section 86.288.

9. If a member applies for and receives benefits for an accidental disability retirement allowance pursuant to the provisions of section 86.263, the member shall forfeit all rights, claims or interest in the member's DROP account and the member's benefits shall be calculated as if the member has continued in employment and had not elected to participate in the DROP. Any portion of a DROP account that has been forfeited as provided in this subsection shall be a general asset of the system.

10. A member's DROP account shall earn interest equal to the rate of return earned by the system's investment portfolio on a market value basis, including realized and unrealized gains and losses, net of investment expense, as certified by the system's actuary. As of the last day of each plan year beginning after DROP participation begins, the member's DROP account balance, determined as of the last day of the prior plan year, shall be credited with interest at the investment rate earned by the assets of the retirement system for such prior plan year. If distribution of the member's DROP account balance is made in a lump sum under subsection 4 or 8 of this section, interest for the plan year of distribution shall be credited on the ending balance for the prior plan year at the investment rate earned on the assets of the retirement system for the prior plan year, in proportion to the part of the plan year preceding the date of the member's termination of employment or death, whichever is earlier. If the member's DROP account is paid in equal monthly installments pursuant to subsection 4 of this section, interest

during the installment period shall be credited as of the last day of each plan year ending after installment payment begins on the account balance as of the first or last day of the plan year, whichever is lower, at the investment rate earned by the assets of the system for the prior plan year. Interest for the year in which the final installment is paid shall be credited on the balance remaining after the final installment is paid, at the investment rate earned on the assets of the system for the prior plan year, in proportion to the part of the plan year preceding payment of the final installment. Any interest credited to the DROP account during the installment period shall be paid as soon as reasonably possible after the final monthly installment. No interest shall be credited on amounts, if any, added to the member's DROP account during the year in which the distribution of the account is completed.

11. The board of trustees shall not incur any liability individually or on behalf of other individuals for any act or omission made in good faith in relation to the DROP or assets credited to DROP accounts established by this section. The provisions of the Internal Revenue Code and regulations promulgated thereunder shall supersede any provision of this section if there is any inconsistency with the Internal Revenue Code or regulation.

12. Upon the receipt by the board of trustees of evidence and proof that the death of a member resulted from an event occurring while the member was in the actual performance of duty, and if the member is participating in the DROP, the member's surviving spouse or, if the member is then unmarried, the member's unmarried dependent children, may elect within thirty days after the member's death to have the amount in the member's DROP account paid in the form of a monthly survivor annuity. Payment of the survivor annuity shall begin within sixty days after the election is received. Payment to the member's surviving spouse shall continue until the surviving spouse's death; payment to the member's unmarried dependent children shall be made while any child qualifies as an unmarried dependent child pursuant to section 86.280. The survivor annuity shall be the actuarial equivalent of the member's DROP account as of the date of the member's death. In no event shall the total amount paid pursuant to this subsection be less than the member's DROP account balance as of the date of the member's death.

86.257. DISABILITY RETIREMENT ALLOWANCE GRANTED, WHEN — PERIODIC MEDICAL EXAMINATIONS REQUIRED, WHEN — CESSATION OF DISABILITY BENEFIT, WHEN. — 1. Upon the application of the [board] **chief** of police [commissioners or any successor body] **or a member**, any member who has completed ten or more years of creditable service or upon the police retirement system created by sections 86.200 to 86.366 first attaining, after August 28, 2013, a funded ratio, as defined in section 105.660 and as determined by the system's annual actuarial valuation, of at least eighty percent, a member who has completed five or more years of creditable service and who has become permanently unable to perform the duties of a police officer as the result of an injury or illness not exclusively caused or induced by the actual performance of his or her official duties or by his or her own negligence shall be retired by the board of [police commissioners or any successor body] **trustees of the police retirement system** upon certification by the medical board of the police retirement system and approval by the board of trustees of the police retirement system that the member is mentally or physically unable to perform the duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired.

2. Once each year during the first five years following such member's retirement, and at least once in every three-year period thereafter, the board of trustees may, and upon the member's application shall, require any nonduty disability beneficiary who has not yet attained sixty years of age to undergo a medical examination at a place designated by the medical board or such physicians as the medical board appoints. If any nonduty disability beneficiary who has not attained sixty years of age refuses to submit to a medical examination, his or her nonduty disability pension may be discontinued until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the board of trustees.

3. If the medical board certifies to the board of trustees that a nonduty disability beneficiary is able to perform the duties of a police officer, and if the board of trustees concurs on the report, then such beneficiary's nonduty disability pension shall cease.

4. If upon cessation of a disability pension under subsection 3 of this section, the former disability beneficiary is restored to active service, he or she shall again become a member, and he or she shall contribute thereafter at the same rate as other members. Upon his or her subsequent retirement, he or she shall be credited with all of his or her active retirement, but not including any time during which the former disability beneficiary received a disability pension under this section.

86.263. SERVICE-CONNECTED ACCIDENTAL DISABILITY RETIREMENT FOR ACTIVE SERVICE MEMBERS, REQUIREMENTS — PERIODIC EXAMINATIONS REQUIRED, WHEN — CESSATION OF BENEFITS, WHEN. — 1. Any member in active service who is permanently unable to perform the full and unrestricted duties of a police officer as the natural, proximate, and exclusive result of an accident occurring within the actual performance of duty at some definite time and place, through no negligence on the member's part, shall be retired by the board of [police commissioners or any successor body] **trustees of the police retirement system** upon certification by [one or more physicians of] the medical board that the member is mentally or physically unable to perform the full and unrestricted duties of a police officer, that the inability is permanent or likely to become permanent, and that the member should be retired. The inability to perform the "full and unrestricted duties of a police officer" means the member is unable to perform all the essential job functions for the position of police officer as established by the [board] **chief** of police [commissioners or any successor body].

2. No member shall be approved for retirement under the provisions of subsection 1 of this section unless the application was made and submitted [to the board of police commissioners or any successor body] **by the chief of police or a member** no later than five years following the date of accident, provided, that if the accident was reported within five years of the date of the accident and an examination made of the member within thirty days of the date of accident by a health care provider whose services were provided through the [board] **chief** of police [commissioners] with subsequent examinations made as requested, then an application made more than five years following the date of the accident shall be considered timely.

3. Once each year during the first five years following a member's retirement, and at least once in every three-year period thereafter, the board of trustees may require any disability beneficiary who has not yet attained sixty years of age to undergo a medical examination or medical examinations at a place designated by the medical board or such physicians as the medical board appoints. If any disability beneficiary who has not attained sixty years of age refuses to submit to a medical examination, his or her disability pension may be discontinued by the board of trustees of the police retirement system until his or her withdrawal of such refusal, and if his or her refusal continues for one year, all rights in and to such pension may be revoked by the board of trustees.

4. If the medical board certifies to the board of trustees that a disability beneficiary is able to perform the duties of a police officer, then such beneficiary's disability pension shall cease.

5. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is restored to active service, he or she shall again become a member, and he or she shall contribute thereafter at the same rate as other members. Upon his or her subsequent retirement, he or she shall be credited with all of his or her active service time as a member including the service time prior to receiving disability retirement, but not including any time during which the former disability beneficiary received a disability pension under this section.

6. If upon cessation of a disability pension under subsection 4 of this section, the former disability beneficiary is not restored to active service, such former disability beneficiary shall be entitled to the retirement benefit to which such former disability beneficiary would have been

entitled if such former disability beneficiary had terminated service for any reason other than dishonesty or being convicted of a felony at the time of such cessation of such former disability beneficiary's disability pension. For purposes of such retirement benefits, such former disability beneficiary shall be credited with all of the former disability beneficiary's active service time as a member, but not including any time during which the former disability beneficiary received a disability beneficiary pension under this section.

86.270. INVESTIGATION AND EXAMINATION OF APPLICANTS FOR DISABILITY BENEFITS.

— 1. Any determination of whether a member is disabled under the provisions of section 86.257 or 86.263 shall consist of an investigation of the member's physical and mental condition by the medical [director] **board** of the police retirement system [and all physicians appointed by the medical director] under the provisions of section 86.237 and an investigation by the board of trustees of the police retirement system of any other matter relevant to determine whether the member satisfies the applicable requirements of section 86.257 or 86.263. The board of trustees may authorize the use of staff of the police retirement system and other persons not employed by the police retirement system to assist in its investigation. The board of trustees of the police retirement system and the medical [director] **board** of the police retirement system and any such physicians appointed by the medical [director] **board** under the provisions of section 86.237 may communicate with each other as to matters relevant to determine whether the member satisfies the applicable requirements of section 86.257 or 86.263.

2. The board of trustees shall require each member who applies for disability benefits and any disability beneficiary to be reexamined under the provisions of section 86.257 or 86.263 to undergo medical examinations at places designated by the medical [director] **board** and any physicians appointed by the medical [director] **board** under the provisions of section 86.237. [The examination shall be made by the medical director or by any physicians appointed by the medical director under the provisions of section 86.237.]

86.320. CONTRIBUTIONS, RATE OF — DEDUCTION FROM COMPENSATION. — 1. The board of trustees shall certify to the [board] **chief** of police [commissioners and the board of police commissioners] **who** shall cause to be deducted from the salary of each member on each and every payroll for each and every pay period, seven percent of the compensation of each member who is not participating in the DROP, including each member whose participation in the DROP has ended and who has returned to active participation in the system pursuant to section 86.251, and zero percent of the compensation of each member who is participating in the DROP or whose participation in the DROP has ended but who has not returned to active participation in the system pursuant to section 86.251.

2. The deductions provided for in this section shall be made notwithstanding that the minimum compensation provided by law for any member shall be reduced thereby. Every member shall be deemed to consent to the deductions made and provided for in this section, and shall receipt for the member's full salary or compensation and payment of salary or compensation less such deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered during the period covered by the payment except as to benefits provided by sections 86.200 to 86.366. The [board] **chief** of police [commissioners] shall certify to the board of trustees on each and every payroll or in such other manner as the board of trustees shall prescribe the amount deducted, and such amounts shall be paid into the system and shall be credited together with members' interest thereon to the individual account of the member from whose compensation such deduction was made.

3. The board of trustees is authorized to grant additional benefits for such parts of contributions as were made prior to the adoption of the seven-percent rate for all members which were in excess of the compulsory contributions required of each member.

86.1110. MILITARY LEAVE OF ABSENCE, EFFECT OF — SERVICE CREDIT FOR MILITARY SERVICE, WHEN. — 1. Whenever a member is given a leave of absence for military service and

returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the Armed Forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the Armed Forces, not to exceed two years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial cost of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse, or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is retired by the board of police commissioners for reason of disability as provided in sections 86.900 to 86.1280.

3. Notwithstanding any other provision of sections 86.900 to 86.1280, **on or after August 28, 2015**, a member who [is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations,] **returns to service from a leave of absence for active duty military service** and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable federal statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.900 to 86.1280 [and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence; provided, however, that the foregoing provisions of this subsection shall apply only to such portion of such leave with respect to which the cumulative length of the absence and of all previous absences from a position of employment with the employer by reason of service in the uniformed services does not exceed five years except for such period of any such excess as meets the requirements for exceptions to such five-year limitation set forth in the aforesaid Section 4312] **only to the extent such member pays any required member contributions for such time. The amount of required member contributions shall be calculated on the base compensation the member would**

have received during such leave period. The total amount of service credit that will be granted at the member contribution rate is limited to a maximum of five years. The retirement board may waive the required contributions for military leave of absence, not to exceed three years of creditable service, if the member provides duty orders under Title 10 or Title 32 U.S.C. and discharge from active duty documentation in the form of a DD214 or NGB23.

86.1270. RETIREMENT PLAN DEEMED QUALIFIED PLAN UNDER FEDERAL LAW — BOARD TO ADMINISTER PLAN AS A QUALIFIED PLAN — VESTING OF BENEFITS — DISTRIBUTIONS. — 1. A retirement plan under sections 86.900 to 86.1280 is a qualified plan under the provisions of applicable federal law. The benefits and conditions of a retirement plan under sections 86.900 to 86.1280 shall always be adjusted to ensure that the tax-exempt status is maintained.

2. The retirement board shall administer the retirement system in a manner as to retain at all times qualified status under Section 401(a) of the Internal Revenue Code.

3. The retirement board shall hold in trust the assets of the retirement system for the exclusive benefit of the members and their beneficiaries and for defraying reasonable administrative expenses of the system. No part of such assets shall, at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries, be used for or diverted to any purpose other than such exclusive benefit or to any purpose inconsistent with sections 86.900 to 86.1280.

4. A member's benefit shall be one hundred percent vested and nonforfeitable upon the member's attainment of normal retirement age, which shall be the earlier of:

(1) Completion of twenty-five years of service for Tier I members and twenty-seven years of service for Tier II members;

(2) Age sixty for any Tier I member who has completed at least ten years of creditable service or age sixty for any Tier II member who has completed at least fifteen years of creditable service;

(3) Age seventy without regard to years of service; or

(4) To the extent funded, upon the termination of the system established under sections 86.900 to 86.1280 or any partial termination which affects the members or any complete discontinuance of contributions by the city to the system. Amounts representing forfeited nonvested benefits of terminated members shall not be used to increase benefits payable from the system but may be used to reduce contributions for future plan years.

5. Distribution of benefits shall begin not later than April first of the year following the later of the calendar year during which the member becomes seventy and one-half years of age or the calendar year in which the member retires, and shall otherwise conform to Section 401(a)(9) of the Internal Revenue Code.

6. A member or beneficiary of a member shall not accrue a service retirement annuity, disability retirement annuity, death benefit, whether death occurs in the line of duty or otherwise, or any other benefit under sections 86.900 to 86.1280 in excess of the benefit limits applicable to the fund under Section 415 of the Internal Revenue Code. The retirement board shall reduce the amount of any benefit that exceeds those limits by the amount of the excess. If the total benefits under the retirement system and the benefits and contributions to which any member is entitled under any other qualified plan or plans maintained by the board of police commissioners that employs the member would otherwise exceed the applicable limits under Section 415 of the Internal Revenue Code, the benefits the member would otherwise receive from the retirement system shall be reduced to the extent necessary to enable the benefits to comply with Section 415 of the Internal Revenue Code.

7. The total salary taken into account for any purpose for any member of the retirement system shall not exceed two hundred thousand dollars per year, subject to periodic adjustments in accordance with guidelines provided by the United States Secretary of the Treasury, and shall

not exceed such other limits as may be applicable at any given time under Section 401(a)(17) of the Internal Revenue Code.

8. If the amount of any benefit is to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in sections 86.900 to 86.1280, the actuarial assumptions to be used are those earnings and mortality assumptions being used on the date of the determination by the retirement system's actuary and approved by the retirement board. The actuarial assumptions being used at any particular time shall be attached as an addendum to a copy of the retirement system's statute that is maintained by the retirement board and shall be treated for all purposes as a part of sections 86.900 to 86.1280. The actuarial assumptions may be changed by the retirement system's actuary annually if approved by the retirement board, but a change in actuarial assumptions shall not result in any decrease in benefits accrued as of the effective date of the change.

9. Any member or beneficiary who is entitled to receive any distribution that is an eligible rollover distribution, as defined by Section 402(c)(4) of the Internal Revenue Code, is entitled to have that distribution transferred directly to another eligible retirement plan of the member's or beneficiary's choice upon providing direction to the secretary of this retirement system regarding the transfer in accordance with procedures established by the retirement board. **Effective for distributions made on or after January 1, 2010, a nonspouse beneficiary may elect to directly rollover an eligible rollover distribution to an individual retirement account under Section 408(a) of the Internal Revenue Code of 1986, as amended; to an individual retirement annuity under Section 408(b) of the Internal Revenue Code of 1986, as amended; or if the participant satisfies the requirements for making a Roth contribution under Section 408(A)(c)(3)(B) of the Internal Revenue Code of 1986, as amended, to a Roth individual retirement account.**

10. For all distributions made after December 31, 2001:

(1) For the purposes of subsection 9 of this section, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by the state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the retirement system. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code; and

(2) For purposes of subsection 9 of this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable.

86.1500. MILITARY SERVICE, EFFECT ON CREDITABLE SERVICE — ELECTION TO PURCHASE CREDITABLE SERVICE, WHEN — SERVICE CREDIT FOR MILITARY SERVICE, WHEN.

— 1. Whenever a member is given a leave of absence for military service and returns to employment after discharge from the service, such member shall be entitled to creditable service for the years of employment prior to the leave of absence.

2. Except as provided in subsection 3 of this section, a member who served on active duty in the Armed Forces of the United States and who became a member, or returned to membership, after discharge under honorable conditions, may elect prior to retirement to purchase creditable service equivalent to such service in the Armed Forces, not to exceed two

years, provided the member is not receiving and is not eligible to receive retirement credits or benefits from any other public or private retirement plan for the service to be purchased, other than a United States military service retirement system or United States Social Security benefits attributable to such military service, and an affidavit so stating is filed by the member with the retirement system. A member electing to make such purchase shall pay to the retirement system an amount equal to the actuarial cost of the additional benefits attributable to the additional service credit to be purchased, as of the date the member elects to make such purchase. Payment in full of the amount due from a member electing to purchase creditable service under this subsection shall be made over a period not to exceed five years, measured from the date of election, or prior to the commencement date for payment of benefits to the member from the retirement system, whichever is earlier, including interest on unpaid balances compounded annually at the interest rate assumed from time to time for actuarial valuations of the retirement system. If payment in full including interest is not made within the prescribed period, any partial payments made by the member shall be refunded, and no creditable service attributable to such election, or as a result of any such partial payments, shall be allowed; provided that if a benefit commencement date occurs because of the death or disability of a member who has made an election under this subsection and if the member is current in payments under an approved installment plan at the time of the death or disability, such election shall be valid if the member, the surviving spouse or other person entitled to benefit payments pays the entire balance of the remaining amount due, including interest to the date of such payment, within sixty days after the member's death or disability. The time of a disability shall be deemed to be the time when such member is determined by the retirement board to be totally and permanently disabled as provided in section 86.1560.

3. Notwithstanding any other provision of sections 86.1310 to 86.1640, **on or after August 28, 2015**, a member who [is on leave of absence for military service during any portion of which leave the United States is in a state of declared war, or a compulsory draft is in effect for any of the military branches of the United States, or any units of the military reserves of the United States, including the National Guard, are mobilized for combat military operations,] **returns to service from a leave of absence for active duty military service** and who becomes entitled to reemployment rights and other employment benefits under Title 38, Chapter 43 of the U.S. Code, relating to employment and reemployment rights of members of the uniformed services by meeting the requirements for such rights and benefits under Section 4312 of said chapter, or the corresponding provisions of any subsequent applicable federal statute, shall be entitled to service credit for the time spent in such military service for all purposes of sections 86.1310 to 86.1640 [and such member shall not be required to pay any member contributions for such time. If it becomes necessary for the years of such service to be included in the calculation of such member's compensation for any purpose, such member shall be deemed to have received the same compensation throughout such period of service as the member's base annual salary immediately prior to the commencement of such leave of absence; provided, however, that the foregoing provisions of this subsection shall apply only to such portion of such leave with respect to which the cumulative length of the absence and of all previous absences from a position of employment with the employer by reason of service in the uniformed services does not exceed five years except for such period of any such excess as meets the requirements for exceptions to such five-year limitation set forth in the aforesaid Section 4312] **only to the extent such member pays any required member contributions for such time. The amount of required member contributions shall be calculated on the base compensation the member would have received during such leave period. The total amount of service credit that will be granted at the member contribution rate is limited to a maximum of five years. The retirement board may waive the required contributions for military leave of absence, not to exceed three years of creditable service, if the member provides duty orders under Title 10 or Title 32 U.S.C. and discharge from active duty documentation in the form of a DD214 or NGB23.**

86.1630. TAX-EXEMPT STATUS OF PLAN TO BE MAINTAINED — ASSETS OF SYSTEM TO BE HELD IN TRUST — MEMBER BENEFITS VESTED, WHEN — DISTRIBUTION OF BENEFITS. —

1. A retirement plan under sections 86.1310 to 86.1640 is a qualified plan under the provisions of applicable federal law. The benefits and conditions of a retirement plan under sections 86.1310 to 86.1640 shall always be adjusted to ensure that the tax-exempt status is maintained.

2. The retirement board shall administer this retirement system in such manner as to retain at all times qualified status under Section 401(a) of the Internal Revenue Code.

3. The retirement board shall hold in trust the assets of the retirement system for the exclusive benefit of the members and their beneficiaries and for defraying reasonable administrative expenses of the system. No part of such assets shall, at any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries, be used for or diverted to any purpose other than such exclusive benefit or to any purpose inconsistent with sections 86.1310 to 86.1640.

4. A member's benefit shall be one hundred percent vested and nonforfeitable upon the member's attainment of normal retirement age, which shall be the earlier of:

(1) The attaining of the age of sixty-five or the member's tenth anniversary of employment, whichever is later for any Tier I member, or the attaining of the age of sixty-seven or the member's twentieth anniversary of employment, whichever is later for any Tier II member;

(2) For any Tier I member when the total sum of age and years of creditable service equals or exceeds eighty, or for any Tier II member when the total sum of age and years of creditable service equals or exceeds eighty-five; or

(3) To the extent funded, upon the termination of the system established under sections 86.1310 to 86.1640 or any partial termination which affects the member or any complete discontinuance of contributions by the city to the system. Amounts representing forfeited nonvested benefits of terminated members shall not be used to increase benefits payable from the system but may be used to reduce contributions for future plan years.

5. Distribution of benefits shall begin not later than April first of the year following the later of the calendar year during which the member becomes seventy and one-half years of age or the calendar year in which the member retires, and shall otherwise conform to Section 401(a)(9) of the Internal Revenue Code.

6. A member or beneficiary of a member shall not accrue a service retirement annuity, disability retirement annuity, death benefit, whether death occurs in the line of duty or otherwise, or any other benefit under sections 86.1310 to 86.1640 in excess of the benefit limits applicable to the fund under Section 415 of the Internal Revenue Code. The retirement board shall reduce the amount of any benefit that exceeds the limits of this section by the amount of the excess. If the total benefits under the retirement system and the benefits and contributions to which any member is entitled under any other qualified plan or plans maintained by the board of police commissioners that employs the member would otherwise exceed the applicable limits under Section 415 of the Internal Revenue Code, the benefits the member would otherwise receive from the retirement system are reduced to the extent necessary to enable the benefits to comply with Section 415 of the Internal Revenue Code.

7. The total salary taken into account for any purpose for any member of the retirement system shall not exceed two hundred thousand dollars per year, subject to periodic adjustments in accordance with guidelines provided by the United States Secretary of the Treasury and may not exceed such other limits as may be applicable at any given time under Section 401(a)(17) of the Internal Revenue Code.

8. If the amount of any benefit is determined on the basis of actuarial assumptions that are not specifically set forth for that purpose in sections 86.1310 to 86.1640, the actuarial assumptions to be used are those earnings and mortality assumptions used on the date of the determination by the retirement system's actuary and approved by the retirement board. The actuarial assumptions used at any particular time shall be attached as an addendum to a copy of the retirement system's statute maintained by the retirement board and shall be treated for all

purposes as part of sections 86.1310 to 86.1640. The actuarial assumptions may be changed by the retirement system's actuary annually if approved by the retirement board, but a change in actuarial assumptions shall not result in any decrease in benefits accrued as of the effective date of the change.

9. Any member or beneficiary who is entitled to receive any distribution that is an eligible rollover distribution, as defined by Section 402(c)(4) of the Internal Revenue Code, is entitled to have that distribution transferred directly to another eligible retirement plan of the member's or beneficiary's choice upon providing direction to the secretary of the retirement system regarding the transfer in accordance with procedures established by the retirement board. **Effective for distributions made on or after January 1, 2010, a nonspouse beneficiary may elect to directly rollover an eligible rollover distribution to an individual retirement account under Section 408(a) of the Internal Revenue Code of 1986, as amended; to an individual retirement annuity under Section 408(b) of the Internal Revenue Code of 1986, as amended; or if the participant satisfies the requirements for making a Roth contribution under Section 408(A)(c)(3)(B) of the Internal Revenue Code of 1986, as amended, to a Roth individual retirement account.**

10. For all distributions made after December 31, 2001:

(1) For the purposes of subsection 9 of this section, an eligible retirement plan shall also mean an annuity described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the retirement system. The definition for eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Internal Revenue Code; and

(2) For the purposes of subsection 9 of this section, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable.

Approved July 13, 2015

HB 517 [SS SCS HCS HBs 517 & 754]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding taxation

AN ACT to repeal sections 32.069, 65.620, 94.579, 136.110, 143.161, 143.191, 143.801, 143.811, 144.020, 144.030, 144.049, and 144.080, RSMo, and to enact in lieu thereof twelve new sections relating to taxation, with an existing penalty provision.

SECTION

- A. Enacting clause.
 - 32.069. Interest allowed and paid on refund or overpayment of interest paid in excess of annual interest rate.
 - 65.620. Abolition of township government — effect.
-

- 94.579. Sales tax authorized — ballot language — use of moneys — repeal of tax, ballot language — continuation of tax, ballot language.
- 136.110. Moneys received — record — deposit — audit of director's books — promptly defined.
- 143.161. Missouri dependency exemptions.
- 143.191. Employer to withhold tax from wages — armed services, withholding from wages or retirement — federal civil service retirement, withholding authorized, when — inapplicable to out-of-state businesses, when.
- 143.801. Limitations on credit or refund.
- 143.811. Interest on overpayment.
- 144.020. Rate of tax — tickets, notice of sales tax.
- 144.030. Exemptions from state and local sales and use taxes.
- 144.049. Sales tax holiday for clothing, personal computers, and school supplies, when.
- 144.080. Seller responsible for tax — rules — returns — advertising absorption of tax, stated on invoice or receipt — violation, penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 32.069, 65.620, 94.579, 136.110, 143.161, 143.191, 143.801, 143.811, 144.020, 144.030, 144.049, and 144.080, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 32.069, 65.620, 94.579, 136.110, 143.161, 143.191, 143.801, 143.811, 144.020, 144.030, 144.049, and 144.080, to read as follows:

32.069. INTEREST ALLOWED AND PAID ON REFUND OR OVERPAYMENT OF INTEREST PAID IN EXCESS OF ANNUAL INTEREST RATE. — **1.** Notwithstanding any other provision of law to the contrary, interest shall be allowed and paid on any refund or overpayment at the rate determined by section 32.068 only if the overpayment is not refunded within one hundred twenty days[, or within ninety days in the case of taxes imposed by sections 143.011 and 143.041,] from the latest of the following dates:

- (1) The last day prescribed for filing a tax return or refund claim, without regard to any extension of time granted;
- (2) The date the return, payment, or claim is filed; or
- (3) The date the taxpayer files for a credit or refund and provides accurate and complete documentation to support such claim.

2. Notwithstanding any other provision of law to the contrary, interest shall be allowed and paid on any refund or overpayment at the rate determined by section 32.068 only if the overpayment in the case of taxes imposed by sections 143.011 and 143.041 is not refunded within forty-five days from the date the return or claim is filed.

65.620. ABOLITION OF TOWNSHIP GOVERNMENT — EFFECT. — **1.** Whenever any county abolishes township organization the county treasurer and ex officio collector shall immediately settle his accounts as treasurer with the county commission and shall thereafter perform all duties, exercise all powers, have all rights and be subject to all liabilities imposed and conferred upon the county collector of revenue under chapter 52 until the first Monday in March after the general election next following the abolishment of township organization and until a collector of revenue for the county is elected and qualified. The person elected collector at the general election as aforesaid, if that election is not one for collector of revenue under chapter 52, shall serve until the first Monday in March following the election and qualification of a collector of revenue under chapter 52. Upon abolition of township organization a county treasurer shall be appointed to serve until the expiration of the term of such officer pursuant to chapter 54.

2. Upon abolition of township organization, title to all property of all kinds theretofore owned by the several townships of the county shall vest in the county and the county shall be liable for all outstanding obligations and liabilities of the several townships.

3. The terms of office of all township officers shall expire on the abolition of township organization and the township trustee of each township shall immediately settle his accounts with

the county clerk and all township officers shall promptly deliver to the appropriate county officers, as directed by the county commission, all books, papers, records and property pertaining to their offices.

4. For a period of one calendar year following the abolition of the townships or until the voters of the county have approved a tax levy for road and bridge purposes, whichever occurs first, the county collector shall continue to collect a property tax on a countywide basis in an amount equal to the tax levied by the township that had the lowest total tax rate in the county immediately prior to the abolishment of the townships. The continued collection of the tax shall be considered a continuation of an existing tax and shall not be considered a new tax levy.

94.579. SALES TAX AUTHORIZED — BALLOT LANGUAGE — USE OF MONEYS — REPEAL OF TAX, BALLOT LANGUAGE — CONTINUATION OF TAX, BALLOT LANGUAGE. — 1. The governing body of any home rule city with more than one hundred fifty-one thousand five hundred but fewer than one hundred fifty-one thousand six hundred inhabitants is hereby authorized to impose, by order or ordinance, a sales tax on all retail sales made within the city which are subject to sales tax under chapter 144. The tax authorized in this section shall not exceed one percent, and shall be imposed solely for the purpose of providing revenues for the operation of public safety departments, including police and fire departments, and for pension programs, and health care for employees and pensioners of the public safety departments. The tax authorized in this section shall be in addition to all other sales taxes imposed by law, and shall be stated separately from all other charges and taxes. The order or ordinance shall not become effective unless the governing body of the city submits to the voters residing within the city at a state general, primary, or special election a proposal to authorize the governing body of the city to impose a tax under this section. If the tax authorized in this section is not approved by the voters, then the city shall have an additional year during which to meet its required contribution payment beyond the time period described in section 105.683. If the city meets its required contribution payment in this time, then, notwithstanding the provisions of section 105.683 to the contrary, the delinquency shall not constitute a lien on the funds of the political subdivision, the board of such plan shall not be authorized to compel payment by application for writ of mandamus, and the state treasurer and the director of the department of revenue shall not withhold twenty-five percent of the certified contribution deficiency from the total moneys due the political subdivision from the state. The one-year extension shall only be available to the city on a one-time basis.

2. The ballot of submission for the tax authorized in this section shall be in substantially the following form:

Shall (insert the name of the city) impose a sales tax at a rate of (up to one) percent, solely for the purpose of providing revenues for the operation of public safety departments of the city?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the question, then the tax shall become effective on the first day of the second calendar quarter immediately following notification to the department of revenue. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the question, then the tax shall not become effective unless and until the question is resubmitted under this section to the qualified voters and such question is approved by a majority of the qualified voters voting on the question.

3. All revenue collected under this section by the director of the department of revenue on behalf of any city, except for one percent for the cost of collection which shall be deposited in the state's general revenue fund, shall be deposited in a special trust fund, which is hereby created and shall be known as the "Public Safety Protection Sales Tax Fund", and shall be used solely for the designated purposes. Moneys in the fund shall not be deemed to be state funds, and shall not be commingled with any funds of the state. The director may make refunds from the amounts in the trust fund and credited to the city for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such city. Any funds in the special trust fund which are not needed for current expenditures shall be invested in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. The director shall keep accurate records of the amounts in the fund, and such records shall be open to the inspection of the officers of such city and to the public. Not later than the tenth day of each month, the director shall distribute all moneys deposited in the fund during the preceding month to the city. Such funds shall be deposited with the treasurer of the city, and all expenditures of moneys from the fund shall be by an appropriation ordinance enacted by the governing body of the city.

4. On or after the effective date of the tax, the director of revenue shall be responsible for the administration, collection, enforcement, and operation of the tax, and sections 32.085 and 32.087 shall apply. In order to permit sellers required to collect and report the sales tax to collect the amount required to be reported and remitted, but not to change the requirements of reporting or remitting the tax, or to serve as a levy of the tax, and in order to avoid fractions of pennies, the governing body of the city may authorize the use of a bracket system similar to that authorized in section 144.285, and notwithstanding the provisions of that section, this new bracket system shall be used where this tax is imposed and shall apply to all taxable transactions. Beginning with the effective date of the tax, every retailer in the city shall add the sales tax to the sale price, and this tax shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. For purposes of this section, all retail sales shall be deemed to be consummated at the place of business of the retailer.

5. All applicable provisions in sections 144.010 to 144.525 governing the state sales tax, and section 32.057, the uniform confidentiality provision, shall apply to the collection of the tax, and all exemptions granted to agencies of government, organizations, and persons under sections 144.010 to 144.525 are hereby made applicable to the imposition and collection of the tax. The same sales tax permit, exemption certificate, and retail certificate required by sections 144.010 to 144.525 for the administration and collection of the state sales tax shall satisfy the requirements of this section, and no additional permit or exemption certificate or retail certificate shall be required; except that, the director of revenue may prescribe a form of exemption certificate for an exemption from the tax. All discounts allowed the retailer under the state sales tax for the collection of and for payment of taxes are hereby allowed and made applicable to the tax. The penalties for violations provided in section 32.057 and sections 144.010 to 144.525 are hereby made applicable to violations of this section. If any person is delinquent in the payment of the amount required to be paid under this section, or in the event a determination has been made against the person for the tax and penalties under this section, the limitation for bringing suit for the collection of the delinquent tax and penalties shall be the same as that provided in sections 144.010 to 144.525.

6. The governing body of any city that has adopted the sales tax authorized in this section may submit the question of repeal of the tax to the voters on any date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city) repeal the sales tax imposed at a rate of (up to one) percent for the purpose of providing revenues for the operation of public safety departments of the city?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of repeal, that repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved.

If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

7. The governing body of any city that has adopted the sales tax authorized in this section shall submit the question of [repeal] **continuation** of the tax to the voters every five years from the date of its inception on a date available for elections for the city. The ballot of submission shall be in substantially the following form:

Shall (insert the name of the city) [repeal the] **continue collecting** a sales tax imposed at a rate of (up to one) percent for the purpose of providing revenues for the operation of public safety departments of the city?

☐ YES

☐ NO

If you are in favor of the question, place an "X" in the box opposite "YES". If you are opposed to the question, place an "X" in the box opposite "NO".

If a majority of the votes cast on the question by the qualified voters voting thereon are [in favor of repeal, that] **opposed to continuation**, repeal shall become effective on December thirty-first of the calendar year in which such [repeal was] **continuation was failed to be** approved. If a majority of the votes cast on the question by the qualified voters voting thereon are [opposed to the repeal] **in favor of continuation**, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and [the repeal is] **continuation fails to be** approved by a majority of the qualified voters voting on the question.

8. Whenever the governing body of any city that has adopted the sales tax authorized in this section receives a petition, signed by a number of registered voters of the city equal to at least two percent of the number of registered voters of the city voting in the last gubernatorial election, calling for an election to repeal the sales tax imposed under this section, the governing body shall submit to the voters of the city a proposal to repeal the tax. If a majority of the votes cast on the question by the qualified voters voting thereon are in favor of the repeal, the repeal shall become effective on December thirty-first of the calendar year in which such repeal was approved. If a majority of the votes cast on the question by the qualified voters voting thereon are opposed to the repeal, then the sales tax authorized in this section shall remain effective until the question is resubmitted under this section to the qualified voters and the repeal is approved by a majority of the qualified voters voting on the question.

9. If the tax is repealed or terminated by any means, all funds remaining in the special trust fund shall continue to be used solely for the designated purposes, and the city shall notify the director of the department of revenue of the action at least ninety days before the effective date of the repeal and the director may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such city, the director shall remit the balance in the account to the city and close the account of that city. The director shall notify each city of each instance of any amount refunded or any check redeemed from receipts due the city.

136.110. MONEYS RECEIVED — RECORD — DEPOSIT — AUDIT OF DIRECTOR'S BOOKS — PROMPTLY DEFINED. — 1. The director of revenue shall promptly record all sums of money collected or received by the director and shall immediately thereafter deposit the same with the state treasurer, excluding all funds received and disbursed by the state on behalf of counties and cities, towns and villages. The state treasurer, upon receipt of any moneys from the director of revenue, shall give his or her receipt therefor, executing the same in triplicate, and shall deliver one copy of such receipt to the director of revenue, one copy to the commissioner of administration, and shall retain the third copy thereof in the files of the state treasurer. The books of the director of revenue shall be audited by the state auditor at such times as may be required by law, and at such other times as may be directed by the governor.

2. For the purposes of this section, the term "promptly" shall mean within two business days.

143.161. MISSOURI DEPENDENCY EXEMPTIONS. — 1. For all taxable years beginning after December 31, 1997, a resident may deduct one thousand two hundred dollars for each dependent for whom such resident is entitled to a dependency exemption deduction for federal income tax purposes. In the case of a dependent who has attained sixty-five years of age on or before the last day of the taxable year, if such dependent resides in the taxpayer's home or the dependent's own home or if such dependent does not receive Medicaid or state funding while residing in a facility licensed pursuant to chapter 198, the taxpayer may deduct an additional one thousand dollars.

2. [For all taxable years beginning before January 1, 1999, a resident who qualifies as an unmarried head of household or as a surviving spouse for federal income tax purposes may deduct an additional eight hundred dollars.] For all taxable years beginning on or after January 1, 1999, a resident who qualifies as an unmarried head of household or as a surviving spouse for federal income tax purposes may deduct an additional one thousand four hundred dollars.

3. For all taxable years beginning on or after January 1, 2015, for each birth for which a certificate of birth resulting in stillbirth has been issued under section 193.165, a taxpayer may claim the exemption under subsection 1 of this section only in the taxable year in which the stillbirth occurred, if the child otherwise would have been a member of the taxpayer's household.

143.191. EMPLOYER TO WITHHOLD TAX FROM WAGES — ARMED SERVICES, WITHHOLDING FROM WAGES OR RETIREMENT — FEDERAL CIVIL SERVICE RETIREMENT, WITHHOLDING AUTHORIZED, WHEN — INAPPLICABLE TO OUT-OF-STATE BUSINESSES, WHEN. — 1. Every employer maintaining an office or transacting any business within this state and making payment of any wages taxable under [sections 143.011 to 143.998] **this chapter** to a resident or nonresident individual shall deduct and withhold from such wages for each payroll period the amount provided in subsection 3 of this section.

2. The term "wages" referred to in subsection 1 of this section means wages as defined by section 3401(a) of the Internal Revenue Code of 1986, as amended. The term "employer" means any person, firm, corporation, association, fiduciary of any kind, or other type of organization for whom an individual performs service as an employee, except that if the person or organization for whom the individual performs service does not have control of the payment of compensation for such service, the term "employer" means the person having control of the payment of the compensation. The term includes the United States, this state, other states, and all agencies, instrumentalities, and subdivisions of any of them.

3. (1) The method of determining the amount to be withheld shall be prescribed by regulations of the director of revenue. The prescribed table, percentages, or other method shall result, so far as practicable, in withholding from the employee's wages during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee

under [sections 143.011 to 143.998] **this chapter** with respect to the amount of such wages included in his Missouri adjusted gross income during the calendar year.

(2) **The amount to be withheld by an employer with respect to tips received by an employee in the course of the employee's employment shall be calculated based solely upon the amount of tips reported by the employee in a written statement furnished to the employer as required by subsection (a) of section 6053 of the Internal Revenue Code of 1986, as amended, or if greater, the amount of tips received by the employer and remitted to the employee. If an employee shares tips, the employer shall withhold only from the employee who actually receives the shared tips. The employer's Missouri income tax withholding obligation with respect to an employee's tip income shall be limited to the portion of the employee's wages under the control of the employer against which the employer is required, pursuant to federal law, to withhold federal income taxes on the employee's tips. Such withholding obligation shall be calculated after making reductions for all required federal tax withholding, Missouri income tax withholding on non-tip income, and other amounts which have higher legal priority.**

4. For purposes of this section an employee shall be entitled to the same number of personal and dependency withholding exemptions as the number of exemptions to which he is entitled for federal income tax withholding purposes. An employer may rely upon the number of federal withholding exemptions claimed by the employee, except where the employee provides the employer with a form claiming a different number of withholding exemptions in this state.

5. The director of revenue may enter into agreements with the tax departments of other states (which require income tax to be withheld from the payment of wages) so as to govern the amounts to be withheld from the wages of residents of such states under this section. Such agreements may provide for recognition of anticipated tax credits in determining the amounts to be withheld and, under regulations prescribed by the director of revenue, may relieve employers in this state from withholding income tax on wages paid to nonresident employees. The agreements authorized by this subsection are subject to the condition that the tax department of such other states grant similar treatment to residents of this state.

6. The director of revenue shall enter into agreements with the Secretary of the Treasury of the United States or with the appropriate secretaries of the respective branches of the Armed Forces of the United States for the withholding, as required by subsections 1 and 2 of this section, of income taxes due the state of Missouri on wages or other payments for service in the armed services of the United States or on payments received as retirement or retainer pay of any member or former member of the Armed Forces entitled to such pay.

7. Subject to appropriations for the purpose of implementing this section, the director of revenue shall comply with provisions of the laws of the United States as amended and the regulations promulgated thereto in order that all residents of this state receiving monthly retirement income as a civil service annuitant from the federal government taxable by this state may have withheld monthly from any such moneys, whether pension, annuities or otherwise, an amount for payment of state income taxes as required by state law, but such withholding shall not be less than twenty-five dollars per quarter.

8. The provisions of this section shall not apply to out-of-state businesses operating under sections 190.270 to 190.285.

143.801. LIMITATIONS ON CREDIT OR REFUND. — 1. A claim for credit or refund of an overpayment of any tax imposed by sections 143.011 to 143.996 shall be filed by the taxpayer within three years from the time the return was filed or two years from the time the tax was paid, whichever of such periods expires the later; or if no return was filed by the taxpayer, within two years from the time the tax was paid. No credit or refund shall be allowed or made after the expiration of the period of limitation prescribed in this subsection for the filing of a claim for credit or refund, unless a claim for credit or refund is filed by the taxpayer within such period.

2. If the claim is filed by the taxpayer during the three-year period prescribed in subsection 1 of this section, the amount of the credit or refund shall not exceed the portion of the tax paid within the three years immediately preceding the filing of the claim plus the period of any extension of time for filing the return. If the claim is not filed within such three-year period, but is filed within the two-year period, the amount of the credit or refund shall not exceed the portion of the tax paid during the two years immediately preceding the filing of the claim. If no claim is filed, the credit or refund shall not exceed the amount which would be allowable under either of the preceding sentences, as the case may be, if a claim was filed on the date the credit or refund is allowed.

3. If pursuant to subsection 6 of section 143.711 an agreement for an extension of the period for assessment of income taxes is made within the period prescribed in subsection 1 of this section for the filing of a claim for credit or refund, the period for filing a claim for credit or for making a credit or refund if no claim is filed, shall not expire prior to six months after the expiration of the period within which an assessment may be made pursuant to the agreement or any extension thereof. The amount of such credit or refund shall not exceed the portion of the tax paid after the execution of the agreement and before the filing of the claim or the making of the credit or refund, as the case may be, plus the portion of the tax paid within the period which would be applicable under subsection 1 of this section if a claim had been filed on the date the agreement was executed.

4. If a taxpayer is required by section 143.601 to report a change or correction in federal taxable income reported on his federal income tax return, or to report a change or correction which is treated in the same manner as if it were an overpayment for federal income tax purposes, an amended return or a claim for credit or refund of any resulting overpayment of tax shall be filed by the taxpayer within one year from the time the notice of such change or correction or such amended return was required to be filed with the director of revenue. If the report or amended return required by section 143.601 is not filed within the ninety-day period therein specified, interest on any resulting refund or credit shall cease to accrue after such ninetieth day. The amount of such credit or refund shall not exceed the amount of the reduction in tax attributable to:

(1) The issues on which such federal change or correction or the items amended on the taxpayer's amended federal income tax return are based, and

(2) Any change in the amount of [his] **the taxpayer's** federal income tax deduction under the provisions of subsection 1 of section 143.171. No effect shall be given in the preceding sentence to any federal change or correction or to any item on an amended return unless it is timely under the applicable federal period of limitations. The time and amount provisions of this subsection shall be in lieu of any other provisions of this section. This subsection shall not affect the time within which or the amount for which a claim for credit or refund may be filed apart from this subsection.

5. If the claim for credit or refund relates to an overpayment of tax on account of the deductibility by the taxpayer of a debt as a debt which became worthless or a loss from worthlessness of a security or the effect that the deductibility of a debt or of a loss has on the application to the taxpayer of a carryover, the claim may be made, under regulations prescribed by the director of revenue within seven years from the date prescribed by law for filing the return for the year with respect to which the claim is made.

6. If the claim for credit or refund relates to an overpayment attributable to a net operating loss carryback or a capital loss carryback, in lieu of the three-year period of limitations prescribed in subsection 1 of this section, the period shall be that period which ends with the expiration of the fifteenth day of the fortieth month (or the thirty-ninth month, in the case of a corporation) following the end of the taxable year of the net operating loss or net capital loss which results in such carryback, or the period prescribed in subsection 3 of this section in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsections 2, 3 and

4 of this section, whichever is applicable, to the extent of the amount of the overpayment attributable to such carryback.

7. (1) No period of limitations provided in subsections 1 to 6 of this section shall apply if a taxpayer amends, or the federal Internal Revenue Service or its successor agency changes, the taxpayer's federal income tax return for the same tax period and:

(a) Such amendment or change occurs after any period of limitations provided in subsections 1 to 6 of this section has expired;

(b) Such amendment or change reveals that the taxpayer is eligible to claim a credit or refund of an overpayment of any tax imposed under this chapter; and

(c) A period of limitations provided in subsections 1 to 6 of this section prohibits the taxpayer from claiming such credit or refund.

(2) If the taxpayer files a claim for such credit or refund, the claim shall be filed in the manner provided in this chapter and shall be filed within one year from the time the taxpayer amends or the federal Internal Revenue Service changes the taxpayer's federal income tax return.

143.811. INTEREST ON OVERPAYMENT. — 1. Under regulations prescribed by the director of revenue, interest shall be allowed and paid at the rate determined by section 32.065 on any overpayment in respect of the tax imposed by sections 143.011 to 143.996; except that, where the overpayment resulted from the filing of an amendment of the tax by the taxpayer after the last day prescribed for the filing of the return, interest shall be allowed and paid at the rate of six percent per annum. With respect to the part of an overpayment attributable to a deposit made pursuant to subsection 2 of section 143.631, interest shall be paid thereon at the rate in section 32.065 from the date of the deposit to the date of refund. No interest shall be allowed or paid if the amount thereof is less than one dollar.

2. For purposes of this section:

(1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day determined without regard to any extension of time granted the taxpayer;

(2) Any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year, and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid by him on the fifteenth day of the fourth month following the close of his taxable year to which such amount constitutes a credit or payment.

3. For purposes of this section with respect to any withholding tax:

(1) If a return for any period ending with or within a calendar year is filed before April fifteenth of the succeeding calendar year, such return shall be considered filed April fifteenth of such succeeding calendar year; and

(2) If a tax with respect to remuneration paid during any period ending with or within a calendar year is paid before April fifteenth of the succeeding calendar year, such tax shall be considered paid on April fifteenth of such succeeding calendar year.

4. If any overpayment of tax imposed by sections 143.061 and 143.071 is refunded within four months after the last date prescribed (or permitted by extension of time) for filing the return of such tax or within four months after the return was filed, whichever is later, no interest shall be allowed under this section on overpayment.

5. If any overpayment of tax imposed by sections 143.011 and 143.041 is refunded within [ninety] **forty-five** days after the [last date prescribed or permitted by extension of time for filing the return of such tax] **date the return or claim is filed**, no interest shall be allowed under this section on overpayment.

6. Any overpayment resulting from a carryback, including a net operating loss and a corporate capital loss, shall be deemed not to have been made prior to the close of the taxable year in which the loss arises.

7. Any overpayment resulting from a carryback of a tax credit, including but not limited to the tax credits provided in sections 253.557 and 348.432, shall be deemed not to have been made prior to the close of the taxable year in which the tax credit was authorized.

144.020. RATE OF TAX — TICKETS, NOTICE OF SALES TAX. — 1. A tax is hereby levied and imposed for the privilege of titling new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be titled under the laws of the state of Missouri and, except as provided in subdivision (9) of this subsection, upon all sellers for the privilege of engaging in the business of selling tangible personal property or rendering taxable service at retail in this state. The rate of tax shall be as follows:

(1) Upon every retail sale in this state of tangible personal property, excluding motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats and outboard motors required to be titled under the laws of the state of Missouri and subject to tax under subdivision (9) of this subsection, a tax equivalent to four percent of the purchase price paid or charged, or in case such sale involves the exchange of property, a tax equivalent to four percent of the consideration paid or charged, including the fair market value of the property exchanged at the time and place of the exchange, except as otherwise provided in section 144.025;

(2) A tax equivalent to four percent of the amount paid for admission and seating accommodations, or fees paid to, or in any place of amusement, entertainment or recreation, games and athletic events;

(3) A tax equivalent to four percent of the basic rate paid or charged on all sales of electricity or electrical current, water and gas, natural or artificial, to domestic, commercial or industrial consumers;

(4) A tax equivalent to four percent on the basic rate paid or charged on all sales of local and long distance telecommunications service to telecommunications subscribers and to others through equipment of telecommunications subscribers for the transmission of messages and conversations and upon the sale, rental or leasing of all equipment or services pertaining or incidental thereto; except that, the payment made by telecommunications subscribers or others, pursuant to section 144.060, and any amounts paid for access to the internet or interactive computer services shall not be considered as amounts paid for telecommunications services;

(5) A tax equivalent to four percent of the basic rate paid or charged for all sales of services for transmission of messages of telegraph companies;

(6) A tax equivalent to four percent on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, motel, tavern, inn, restaurant, eating house, drugstore, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to the public. **The tax imposed under this subdivision shall not apply to any automatic mandatory gratuity for a large group imposed by a restaurant when such gratuity is reported as employee tip income and the restaurant withholds income tax under section 143.191 on such gratuity;**

(7) A tax equivalent to four percent of the amount paid or charged for intrastate tickets by every person operating a railroad, sleeping car, dining car, express car, boat, airplane and such buses and trucks as are licensed by the division of motor carrier and railroad safety of the department of economic development of Missouri, engaged in the transportation of persons for hire;

(8) A tax equivalent to four percent of the amount paid or charged for rental or lease of tangible personal property, provided that if the lessor or renter of any tangible personal property had previously purchased the property under the conditions of "sale at retail" or leased or rented the property and the tax was paid at the time of purchase, lease or rental, the lessor, sublessor, renter or subrenter shall not apply or collect the tax on the subsequent lease, sublease, rental or subrental receipts from that property. The purchase, rental or lease of motor vehicles, trailers, motorcycles, mopeds, motortricycles, boats, and outboard motors shall be taxed and the tax paid

as provided in this section and section 144.070. In no event shall the rental or lease of boats and outboard motors be considered a sale, charge, or fee to, for or in places of amusement, entertainment or recreation nor shall any such rental or lease be subject to any tax imposed to, for, or in such places of amusement, entertainment or recreation. Rental and leased boats or outboard motors shall be taxed under the provisions of the sales tax laws as provided under such laws for motor vehicles and trailers. Tangible personal property which is exempt from the sales or use tax under section 144.030 upon a sale thereof is likewise exempt from the sales or use tax upon the lease or rental thereof;

(9) A tax equivalent to four percent of the purchase price, as defined in section 144.070, of new and used motor vehicles, trailers, boats, and outboard motors purchased or acquired for use on the highways or waters of this state which are required to be registered under the laws of the state of Missouri. This tax is imposed on the person titling such property, and shall be paid according to the procedures in section 144.440.

2. All tickets sold which are sold under the provisions of sections 144.010 to 144.525 which are subject to the sales tax shall have printed, stamped or otherwise endorsed thereon, the words "This ticket is subject to a sales tax."

144.030. EXEMPTIONS FROM STATE AND LOCAL SALES AND USE TAXES. — 1. There is hereby specifically exempted from the provisions of sections 144.010 to 144.525 and from the computation of the tax levied, assessed or payable pursuant to sections 144.010 to 144.525 such retail sales as may be made in commerce between this state and any other state of the United States, or between this state and any foreign country, and any retail sale which the state of Missouri is prohibited from taxing pursuant to the Constitution or laws of the United States of America, and such retail sales of tangible personal property which the general assembly of the state of Missouri is prohibited from taxing or further taxing by the constitution of this state.

2. There are also specifically exempted from the provisions of the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.761 and from the computation of the tax levied, assessed or payable pursuant to the local sales tax law as defined in section 32.085, section 238.235, and sections 144.010 to 144.525 and 144.600 to 144.745:

(1) Motor fuel or special fuel subject to an excise tax of this state, unless all or part of such excise tax is refunded pursuant to section 142.824; or upon the sale at retail of fuel to be consumed in manufacturing or creating gas, power, steam, electrical current or in furnishing water to be sold ultimately at retail; or feed for livestock or poultry; or grain to be converted into foodstuffs which are to be sold ultimately in processed form at retail; or seed, limestone or fertilizer which is to be used for seeding, liming or fertilizing crops which when harvested will be sold at retail or will be fed to livestock or poultry to be sold ultimately in processed form at retail; economic poisons registered pursuant to the provisions of the Missouri pesticide registration law (sections 281.220 to 281.310) which are to be used in connection with the growth or production of crops, fruit trees or orchards applied before, during, or after planting, the crop of which when harvested will be sold at retail or will be converted into foodstuffs which are to be sold ultimately in processed form at retail;

(2) Materials, manufactured goods, machinery and parts which when used in manufacturing, processing, compounding, mining, producing or fabricating become a component part or ingredient of the new personal property resulting from such manufacturing, processing, compounding, mining, producing or fabricating and which new personal property is intended to be sold ultimately for final use or consumption; and materials, including without limitation, gases and manufactured goods, including without limitation slagging materials and firebrick, which are ultimately consumed in the manufacturing process by blending, reacting or interacting with or by becoming, in whole or in part, component parts or ingredients of steel products intended to be sold ultimately for final use or consumption;

(3) Materials, replacement parts and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of, motor vehicles, watercraft, railroad rolling stock or aircraft engaged as common carriers of persons or property;

(4) Motor vehicles registered in excess of fifty-four thousand pounds, and the trailers pulled by such motor vehicles, that are actually used in the normal course of business to haul property on the public highways of the state, and that are capable of hauling loads commensurate with the motor vehicle's registered weight; and the materials, replacement parts, and equipment purchased for use directly upon, and for the repair and maintenance or manufacture of such vehicles. For purposes of this subdivision, "motor vehicle" and "public highway" shall have the meaning as ascribed in section 390.020;

(5) Replacement machinery, equipment, and parts and the materials and supplies solely required for the installation or construction of such replacement machinery, equipment, and parts, used directly in manufacturing, mining, fabricating or producing a product which is intended to be sold ultimately for final use or consumption; and machinery and equipment, and the materials and supplies required solely for the operation, installation or construction of such machinery and equipment, purchased and used to establish new, or to replace or expand existing, material recovery processing plants in this state. For the purposes of this subdivision, a "material recovery processing plant" means a facility that has as its primary purpose the recovery of materials into a usable product or a different form which is used in producing a new product and shall include a facility or equipment which are used exclusively for the collection of recovered materials for delivery to a material recovery processing plant but shall not include motor vehicles used on highways. For purposes of this section, the terms motor vehicle and highway shall have the same meaning pursuant to section 301.010. Material recovery is not the reuse of materials within a manufacturing process or the use of a product previously recovered. The material recovery processing plant shall qualify under the provisions of this section regardless of ownership of the material being recovered;

(6) Machinery and equipment, and parts and the materials and supplies solely required for the installation or construction of such machinery and equipment, purchased and used to establish new or to expand existing manufacturing, mining or fabricating plants in the state if such machinery and equipment is used directly in manufacturing, mining or fabricating a product which is intended to be sold ultimately for final use or consumption;

(7) Tangible personal property which is used exclusively in the manufacturing, processing, modification or assembling of products sold to the United States government or to any agency of the United States government;

(8) Animals or poultry used for breeding or feeding purposes, or captive wildlife;

(9) Newsprint, ink, computers, photosensitive paper and film, toner, printing plates and other machinery, equipment, replacement parts and supplies used in producing newspapers published for dissemination of news to the general public;

(10) The rentals of films, records or any type of sound or picture transcriptions for public commercial display;

(11) Pumping machinery and equipment used to propel products delivered by pipelines engaged as common carriers;

(12) Railroad rolling stock for use in transporting persons or property in interstate commerce and motor vehicles licensed for a gross weight of twenty-four thousand pounds or more or trailers used by common carriers, as defined in section 390.020, in the transportation of persons or property;

(13) Electrical energy used in the actual primary manufacture, processing, compounding, mining or producing of a product, or electrical energy used in the actual secondary processing or fabricating of the product, or a material recovery processing plant as defined in subdivision (5) of this subsection, in facilities owned or leased by the taxpayer, if the total cost of electrical energy so used exceeds ten percent of the total cost of production, either primary or secondary, exclusive of the cost of electrical energy so used or if the raw materials used in such processing

contain at least twenty-five percent recovered materials as defined in section 260.200. There shall be a rebuttable presumption that the raw materials used in the primary manufacture of automobiles contain at least twenty-five percent recovered materials. For purposes of this subdivision, "processing" means any mode of treatment, act or series of acts performed upon materials to transform and reduce them to a different state or thing, including treatment necessary to maintain or preserve such processing by the producer at the production facility;

(14) Anodes which are used or consumed in manufacturing, processing, compounding, mining, producing or fabricating and which have a useful life of less than one year;

(15) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring air pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(16) Machinery, equipment, appliances and devices purchased or leased and used solely for the purpose of preventing, abating or monitoring water pollution, and materials and supplies solely required for the installation, construction or reconstruction of such machinery, equipment, appliances and devices;

(17) Tangible personal property purchased by a rural water district;

(18) All amounts paid or charged for admission or participation or other fees paid by or other charges to individuals in or for any place of amusement, entertainment or recreation, games or athletic events, including museums, fairs, zoos and planetariums, owned or operated by a municipality or other political subdivision where all the proceeds derived therefrom benefit the municipality or other political subdivision and do not inure to any private person, firm, or corporation, provided, however, that a municipality or other political subdivision may enter into revenue-sharing agreements with private persons, firms, or corporations providing goods or services, including management services, in or for the place of amusement, entertainment or recreation, games or athletic events, and provided further that nothing in this subdivision shall exempt from tax any amounts retained by any private person, firm, or corporation under such revenue-sharing agreement;

(19) All sales of insulin and prosthetic or orthopedic devices as defined on January 1, 1980, by the federal Medicare program pursuant to Title XVIII of the Social Security Act of 1965, including the items specified in Section 1862(a)(12) of that act, and also specifically including hearing aids and hearing aid supplies and all sales of drugs which may be legally dispensed by a licensed pharmacist only upon a lawful prescription of a practitioner licensed to administer those items, including samples and materials used to manufacture samples which may be dispensed by a practitioner authorized to dispense such samples and all sales or rental of medical oxygen, home respiratory equipment and accessories, hospital beds and accessories and ambulatory aids, all sales or rental of manual and powered wheelchairs, stairway lifts, Braille writers, electronic Braille equipment and, if purchased or rented by or on behalf of a person with one or more physical or mental disabilities to enable them to function more independently, all sales or rental of scooters, reading machines, electronic print enlargers and magnifiers, electronic alternative and augmentative communication devices, and items used solely to modify motor vehicles to permit the use of such motor vehicles by individuals with disabilities or sales of over-the-counter or nonprescription drugs to individuals with disabilities, and drugs required by the Food and Drug Administration to meet the over-the-counter drug product labeling requirements in 21 CFR 201.66, or its successor, as prescribed by a health care practitioner licensed to prescribe;

(20) All sales made by or to religious and charitable organizations and institutions in their religious, charitable or educational functions and activities and all sales made by or to all elementary and secondary schools operated at public expense in their educational functions and activities;

(21) All sales of aircraft to common carriers for storage or for use in interstate commerce and all sales made by or to not-for-profit civic, social, service or fraternal organizations, including

fraternal organizations which have been declared tax-exempt organizations pursuant to Section 501(c)(8) or (10) of the 1986 Internal Revenue Code, as amended, in their civic or charitable functions and activities and all sales made to eleemosynary and penal institutions and industries of the state, and all sales made to any private not-for-profit institution of higher education not otherwise excluded pursuant to subdivision (20) of this subsection or any institution of higher education supported by public funds, and all sales made to a state relief agency in the exercise of relief functions and activities;

(22) All ticket sales made by benevolent, scientific and educational associations which are formed to foster, encourage, and promote progress and improvement in the science of agriculture and in the raising and breeding of animals, and by nonprofit summer theater organizations if such organizations are exempt from federal tax pursuant to the provisions of the Internal Revenue Code and all admission charges and entry fees to the Missouri state fair or any fair conducted by a county agricultural and mechanical society organized and operated pursuant to sections 262.290 to 262.530;

(23) All sales made to any private not-for-profit elementary or secondary school, all sales of feed additives, medications or vaccines administered to livestock or poultry in the production of food or fiber, all sales of pesticides used in the production of crops, livestock or poultry for food or fiber, all sales of bedding used in the production of livestock or poultry for food or fiber, all sales of propane or natural gas, electricity or diesel fuel used exclusively for drying agricultural crops, natural gas used in the primary manufacture or processing of fuel ethanol as defined in section 142.028, natural gas, propane, and electricity used by an eligible new generation cooperative or an eligible new generation processing entity as defined in section 348.432, and all sales of farm machinery and equipment, other than airplanes, motor vehicles and trailers, and any freight charges on any exempt item. As used in this subdivision, the term "feed additives" means tangible personal property which, when mixed with feed for livestock or poultry, is to be used in the feeding of livestock or poultry. As used in this subdivision, the term "pesticides" includes adjuvants such as crop oils, surfactants, wetting agents and other assorted pesticide carriers used to improve or enhance the effect of a pesticide and the foam used to mark the application of pesticides and herbicides for the production of crops, livestock or poultry. As used in this subdivision, the term "farm machinery and equipment" means new or used farm tractors and such other new or used farm machinery and equipment and repair or replacement parts thereon and any accessories for and upgrades to such farm machinery and equipment, rotary mowers used exclusively for agricultural purposes, and supplies and lubricants used exclusively, solely, and directly for producing crops, raising and feeding livestock, fish, poultry, pheasants, chukar, quail, or for producing milk for ultimate sale at retail, including field drain tile, and one-half of each purchaser's purchase of diesel fuel therefor which is:

- (a) Used exclusively for agricultural purposes;
- (b) Used on land owned or leased for the purpose of producing farm products; and
- (c) Used directly in producing farm products to be sold ultimately in processed form or otherwise at retail or in producing farm products to be fed to livestock or poultry to be sold ultimately in processed form at retail;

(24) Except as otherwise provided in section 144.032, all sales of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil for domestic use and in any city not within a county, all sales of metered or unmetered water service for domestic use:

- (a) "Domestic use" means that portion of metered water service, electricity, electrical current, natural, artificial or propane gas, wood, coal or home heating oil, and in any city not within a county, metered or unmetered water service, which an individual occupant of a residential premises uses for nonbusiness, noncommercial or nonindustrial purposes. Utility service through a single or master meter for residential apartments or condominiums, including service for common areas and facilities and vacant units, shall be deemed to be for domestic use. Each seller shall establish and maintain a system whereby individual purchases are determined as exempt or nonexempt;

(b) Regulated utility sellers shall determine whether individual purchases are exempt or nonexempt based upon the seller's utility service rate classifications as contained in tariffs on file with and approved by the Missouri public service commission. Sales and purchases made pursuant to the rate classification "residential" and sales to and purchases made by or on behalf of the occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, shall be considered as sales made for domestic use and such sales shall be exempt from sales tax. Sellers shall charge sales tax upon the entire amount of purchases classified as nondomestic use. The seller's utility service rate classification and the provision of service thereunder shall be conclusive as to whether or not the utility must charge sales tax;

(c) Each person making domestic use purchases of services or property and who uses any portion of the services or property so purchased for a nondomestic use shall, by the fifteenth day of the fourth month following the year of purchase, and without assessment, notice or demand, file a return and pay sales tax on that portion of nondomestic purchases. Each person making nondomestic purchases of services or property and who uses any portion of the services or property so purchased for domestic use, and each person making domestic purchases on behalf of occupants of residential apartments or condominiums through a single or master meter, including service for common areas and facilities and vacant units, under a nonresidential utility service rate classification may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for credit or refund to the director of revenue and the director shall give credit or make refund for taxes paid on the domestic use portion of the purchase. The person making such purchases on behalf of occupants of residential apartments or condominiums shall have standing to apply to the director of revenue for such credit or refund;

(25) All sales of handicraft items made by the seller or the seller's spouse if the seller or the seller's spouse is at least sixty-five years of age, and if the total gross proceeds from such sales do not constitute a majority of the annual gross income of the seller;

(26) Excise taxes, collected on sales at retail, imposed by Sections 4041, 4061, 4071, 4081, 4091, 4161, 4181, 4251, 4261 and 4271 of Title 26, United States Code. The director of revenue shall promulgate rules pursuant to chapter 536 to eliminate all state and local sales taxes on such excise taxes;

(27) Sales of fuel consumed or used in the operation of ships, barges, or waterborne vessels which are used primarily in or for the transportation of property or cargo, or the conveyance of persons for hire, on navigable rivers bordering on or located in part in this state, if such fuel is delivered by the seller to the purchaser's barge, ship, or waterborne vessel while it is afloat upon such river;

(28) All sales made to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100 in the exercise of the functions and activities of such agency as provided pursuant to the compact;

(29) Computers, computer software and computer security systems purchased for use by architectural or engineering firms headquartered in this state. For the purposes of this subdivision, "headquartered in this state" means the office for the administrative management of at least four integrated facilities operated by the taxpayer is located in the state of Missouri;

(30) All livestock sales when either the seller is engaged in the growing, producing or feeding of such livestock, or the seller is engaged in the business of buying and selling, bartering or leasing of such livestock;

(31) All sales of barges which are to be used primarily in the transportation of property or cargo on interstate waterways;

(32) Electrical energy or gas, whether natural, artificial or propane, water, or other utilities which are ultimately consumed in connection with the manufacturing of cellular glass products or in any material recovery processing plant as defined in subdivision (5) of this subsection;

(33) Notwithstanding other provisions of law to the contrary, all sales of pesticides or herbicides used in the production of crops, aquaculture, livestock or poultry;

(34) Tangible personal property and utilities purchased for use or consumption directly or exclusively in the research and development of agricultural/biotechnology and plant genomics products and prescription pharmaceuticals consumed by humans or animals;

(35) All sales of grain bins for storage of grain for resale;

(36) All sales of feed which are developed for and used in the feeding of pets owned by a commercial breeder when such sales are made to a commercial breeder, as defined in section 273.325, and licensed pursuant to sections 273.325 to 273.357;

(37) All purchases by a contractor on behalf of an entity located in another state, provided that the entity is authorized to issue a certificate of exemption for purchases to a contractor under the provisions of that state's laws. For purposes of this subdivision, the term "certificate of exemption" shall mean any document evidencing that the entity is exempt from sales and use taxes on purchases pursuant to the laws of the state in which the entity is located. Any contractor making purchases on behalf of such entity shall maintain a copy of the entity's exemption certificate as evidence of the exemption. If the exemption certificate issued by the exempt entity to the contractor is later determined by the director of revenue to be invalid for any reason and the contractor has accepted the certificate in good faith, neither the contractor or the exempt entity shall be liable for the payment of any taxes, interest and penalty due as the result of use of the invalid exemption certificate. Materials shall be exempt from all state and local sales and use taxes when purchased by a contractor for the purpose of fabricating tangible personal property which is used in fulfilling a contract for the purpose of constructing, repairing or remodeling facilities for the following:

(a) An exempt entity located in this state, if the entity is one of those entities able to issue project exemption certificates in accordance with the provisions of section 144.062; or

(b) An exempt entity located outside the state if the exempt entity is authorized to issue an exemption certificate to contractors in accordance with the provisions of that state's law and the applicable provisions of this section;

(38) All sales or other transfers of tangible personal property to a lessor who leases the property under a lease of one year or longer executed or in effect at the time of the sale or other transfer to an interstate compact agency created pursuant to sections 70.370 to 70.441 or sections 238.010 to 238.100;

(39) Sales of tickets to any collegiate athletic championship event that is held in a facility owned or operated by a governmental authority or commission, a quasi-governmental agency, a state university or college or by the state or any political subdivision thereof, including a municipality, and that is played on a neutral site and may reasonably be played at a site located outside the state of Missouri. For purposes of this subdivision, "neutral site" means any site that is not located on the campus of a conference member institution participating in the event;

(40) All purchases by a sports complex authority created under section 64.920, and all sales of utilities by such authority at the authority's cost that are consumed in connection with the operation of a sports complex leased to a professional sports team;

(41) All materials, replacement parts, and equipment purchased for use directly upon, and for the modification, replacement, repair, and maintenance of aircraft, aircraft power plants, and aircraft accessories;

(42) Sales of sporting clays, wobble, skeet, and trap targets to any shooting range or similar places of business for use in the normal course of business and money received by a shooting range or similar places of business from patrons and held by a shooting range or similar place of business for redistribution to patrons at the conclusion of a shooting event;

(43) Any new or used aircraft sold or delivered in this state to a person who is not a resident of this state or a corporation that is not incorporated in this state, and such aircraft is not to be based in this state and shall not remain in this state more than ten business days subsequent to the last to occur of:

(a) The transfer of title to the aircraft to a person who is not a resident of this state or a corporation that is not incorporated in this state; or

(b) The date of the return to service of the aircraft in accordance with 14 CFR 91.407 for any maintenance, preventive maintenance, rebuilding, alterations, repairs, or installations that are completed contemporaneously with the transfer of title to the aircraft to a person who is not a resident of this state or a corporation that is not incorporated in this state.

3. Any ruling, agreement, or contract, whether written or oral, express or implied, between a person and this state's executive branch, or any other state agency or department, stating, agreeing, or ruling that such person is not required to collect sales and use tax in this state despite the presence of a warehouse, distribution center, or fulfillment center in this state that is owned or operated by the person or an affiliated person shall be null and void unless it is specifically approved by a majority vote of each of the houses of the general assembly. For purposes of this subsection, an "affiliated person" means any person that is a member of the same controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code of 1986, as amended, as the vendor or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the vendor as a corporation that is a member of the same controlled group of corporations as defined in Section 1563(a) of the Internal Revenue Code, as amended.

144.049. SALES TAX HOLIDAY FOR CLOTHING, PERSONAL COMPUTERS, AND SCHOOL SUPPLIES, WHEN.— 1. For purposes of this section, the following terms mean:

(1) "Clothing", any article of wearing apparel, including footwear, intended to be worn on or about the human body. The term shall include but not be limited to cloth and other material used to make school uniforms or other school clothing. Items normally sold in pairs shall not be separated to qualify for the exemption. The term shall not include watches, watchbands, jewelry, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, or belt buckles; and

(2) "Personal computers", a laptop, desktop, or tower computer system which consists of a central processing unit, random access memory, a storage drive, a display monitor, and a keyboard and devices designed for use in conjunction with a personal computer, such as a disk drive, memory module, compact disk drive, daughterboard, [digitalizer] **digitizer**, microphone, modem, motherboard, mouse, multimedia speaker, printer, scanner, single-user hardware, single-user operating system, soundcard, or video card;

(3) "School supplies", any item normally used by students in a standard classroom for educational purposes, including but not limited to textbooks, notebooks, paper, writing instruments, crayons, art supplies, rulers, book bags, backpacks, handheld calculators, chalk, maps, and globes. The term shall not include watches, radios, CD players, headphones, sporting equipment, portable or desktop telephones, copiers or other office equipment, furniture, or fixtures. School supplies shall also include computer software having a taxable value of three hundred fifty dollars or less **and any graphing calculator having a taxable value of one hundred fifty dollars or less.**

2. In each year beginning on or after January 1, 2005, there is hereby specifically exempted from state sales tax law all retail sales of any article of clothing having a taxable value of one hundred dollars or less, all retail sales of school supplies not to exceed fifty dollars per purchase, all computer software with a taxable value of three hundred fifty dollars or less, **all graphing calculators having a taxable value of one hundred fifty dollars or less**, and all retail sales of personal computers or computer peripheral devices not to exceed [three] **one** thousand five hundred dollars, during a three-day period beginning at 12:01 a.m. on the first Friday in August and ending at midnight on the Sunday following.

3. If the governing body of any political subdivision adopted an ordinance that applied to the 2004 sales tax holiday to prohibit the provisions of this section from allowing the sales tax holiday to apply to such political subdivision's local sales tax, then, notwithstanding any provision

of a local ordinance to the contrary, the 2005 sales tax holiday shall not apply to such political subdivision's local sales tax. However, any such political subdivision may enact an ordinance to allow the 2005 sales tax holiday to apply to its local sales taxes. A political subdivision must notify the department of revenue not less than forty-five calendar days prior to the beginning date of the sales tax holiday occurring in that year of any ordinance or order rescinding an ordinance or order to opt out.

4. This section shall not apply to any sales which take place within the Missouri state fairgrounds.

5. This section applies to sales of items bought for personal use only.

6. After the 2005 sales tax holiday, any political subdivision may, by adopting an ordinance or order, choose to prohibit future annual sales tax holidays from applying to its local sales tax. After opting out, the political subdivision may rescind the ordinance or order. The political subdivision must notify the department of revenue not less than forty-five calendar days prior to the beginning date of the sales tax holiday occurring in that year of any ordinance or order rescinding an ordinance or order to opt out.

7. This section may not apply to any retailer when less than two percent of the retailer's merchandise offered for sale qualifies for the sales tax holiday. The retailer shall offer a sales tax refund in lieu of the sales tax holiday.

144.080. SELLER RESPONSIBLE FOR TAX — RULES — RETURNS — ADVERTISING ABSORPTION OF TAX, STATED ON INVOICE OR RECEIPT — VIOLATION, PENALTY. — 1. Every person receiving any payment or consideration upon the sale of property or rendering of service, subject to the tax imposed by the provisions of sections 144.010 to 144.525, is exercising the taxable privilege of selling the property or rendering the service at retail and is subject to the tax levied in section 144.020. The person shall be responsible not only for the collection of the amount of the tax imposed on the sale or service to the extent possible under the provisions of section 144.285, but shall, on or before the last day of the month following each calendar quarterly period of three months, file a return with the director of revenue showing the person's gross receipts and the amount of tax levied in section 144.020 for the preceding quarter, and shall remit to the director of revenue, with the return, the taxes levied in section 144.020, except as provided in subsections 2 and 3 of this section. The director of revenue may promulgate rules or regulations changing the filing and payment requirements of sellers, but shall not require any seller to file and pay more frequently than required in this section.

2. Where the aggregate amount levied and imposed upon a seller by section 144.020 is in excess of two hundred and fifty dollars for either the first or second month of a calendar quarter, the seller shall file a return and pay such aggregate amount for such months to the director of revenue by the twentieth day of the succeeding month.

3. Where the aggregate amount levied and imposed upon a seller by section 144.020 is less than forty-five dollars in a calendar quarter, the director of revenue shall by regulation permit the seller to file a return for a calendar year. The return shall be filed and the taxes paid on or before January thirty-first of the succeeding year.

4. The seller of any property or person rendering any service, subject to the tax imposed by sections 144.010 to 144.525, shall collect the tax from the purchaser of such property or the recipient of the service to the extent possible under the provisions of section 144.285, but the seller's inability to collect any part or all of the tax does not relieve the seller of the obligation to pay to the state the tax imposed by section 144.020; except that the collection of the tax imposed by sections 144.010 to 144.525 on motor vehicles and trailers shall be made as provided in sections 144.070 and 144.440.

5. [It shall be unlawful for] Any person [to] **may** advertise or hold out or state to the public or to any customer directly [or indirectly] that the tax or any part thereof imposed by sections 144.010 to 144.525, and required to be collected by the person, will be assumed or absorbed by the person, [or that it will not be separately stated and added to the selling price of the] **provided**

that the amount of tax assumed or absorbed shall be stated on any invoice or receipt for the property sold or service rendered [, or if added, that it or any part thereof will be refunded]. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. **This subsection shall not apply to any retailer prohibited from collecting and remitting sales tax under section 66.630.**

Approved July 6, 2015

HB 522 [SS SCS HB 522, HB 34, HB 133, HB 134, HB 810, HB 338, & HB 873]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding bridge and highway designations

AN ACT to repeal section 227.297, RSMo, and to enact in lieu thereof ten new sections relating to bridge and highway designations.

SECTION

- A. Enacting clause.
- 227.297. Heroes Way designation program established — signage — application procedure — joint committee to review applications.
- 227.380. Theodore McNeal Highway designated for portion of Highway 115 in St. Louis City.
- 227.417. Jerry Corp Memorial Highway designated for portion of U.S. Highway 160 in Ozark County.
- 227.419. Harriet Beard Highway designated for portion of Highway 63 from Adair-Macon County line to northern border of city of Kirksville.
- 227.428. Randy Bever Memorial Highway designated for portion of Business Highway 71 in Andrew County.
- 227.523. Irwin C. Cudworth Memorial Bridge designated on Highway CC in Ozark County.
- 227.524. Ray-Carroll County Veterans Memorial Highway designated for portion of Highway 10.
- 227.525. Billy Yates Highway designated for portion of U.S. Highway 160 in Ripley County.
- 227.526. Veterans Memorial Expressway designated for portion of Highway 54 in Camden County.
- 227.527. Donald Lee Cook Memorial Highway designated for portion of State Highway 21 in Reynolds County.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 227.297, RSMo, is repealed and ten new sections enacted in lieu thereof, to be known as sections 227.297, 227.380, 227.417, 227.419, 227.428, 227.523, 227.524, 227.525, 227.526, and 227.527, to read as follows:

227.297. HEROES WAY DESIGNATION PROGRAM ESTABLISHED — SIGNAGE — APPLICATION PROCEDURE — JOINT COMMITTEE TO REVIEW APPLICATIONS. — 1. This section establishes [an interchange] **a designation program, to be known as the "Heroes Way [Interchange] Designation Program"**, to honor the fallen Missouri heroes who have been killed in action while performing active military duty with the Armed Forces [in Afghanistan or Iraq on or after September 11, 2001]. The signs shall be placed upon interstate or state-numbered highway interchanges **or upon bridges or segments of highway on the state highway system** in accordance with this section, and any applicable federal and state limitations or conditions on highway signage, including location and spacing.

2. Any person who is related by marriage, adoption, or consanguinity within the second degree to a member of the United States Armed Forces who was killed in action while performing active military duty with the Armed Forces [in Afghanistan or Iraq on or after September 11, 2001], and who was a resident of this state at the time he or she was killed in action, may apply for [an interchange] **a designation under the provisions of this section.**

3. Any person described under subsection 2 of this section who desires to have an interstate or state numbered highway interchange **or bridge or segment of highway on the state**

highway system designated after his or her family member shall petition the department of transportation by submitting the following:

(1) An application in a form prescribed by the director, describing the interstate or state numbered highway interchange **or bridge or segment of highway on the state highway system** for which the designation is sought and the proposed name of the interchange, **bridge or relevant segment of highway**. The application shall include the name of at least one current member of the general assembly who will sponsor the [interchange] designation. The application may contain written testimony for support of the [interchange] designation;

(2) Proof that the family member killed in action was a member of the United States Armed Forces and proof that such family member was in fact killed in action while performing active military duty with the United States Armed Forces [in Afghanistan or Iraq on or after September 11, 2001]. Acceptable proof shall be a statement from the Missouri veterans commission or the United States Department of Veterans Affairs so certifying such facts;

(3) By signing a form provided by the Missouri transportation department, the applicant shall certify that the applicant is related by marriage, adoption, or consanguinity within the second degree to the member of the United States Armed Forces who was killed in action; and

(4) A fee to be determined by the commission to cover the costs of constructing and maintaining the proposed interchange, **bridge, or highway** signs. The fee shall not exceed the cost of constructing and maintaining each sign.

4. All moneys received by the department of transportation for the construction and maintenance of interchange, **bridge, or highway** signs shall be deposited in the state treasury to the credit of the state road fund.

5. The documents and fees required under this section shall be submitted to the department of transportation.

6. The department of transportation shall submit for approval or disapproval all applications for [interchange] designations to the joint committee on transportation oversight. The joint committee on transportation oversight may review such applications at any scheduled meeting convened pursuant to section 21.795. If satisfied with the application and all its contents, the committee shall approve the application. The committee shall notify the department of transportation upon the approval or denial of an application for [an interchange] a designation.

7. The department of transportation shall give notice of any proposed [interchange] designation under this section in a manner reasonably calculated to advise the public of such proposal. Reasonable notice shall include posting the proposal for the designation on the department's official public website and making available copies of the sign designation application to any representative of the news media or public upon request and posting the application on a bulletin board or other prominent public place which is easily accessible to the public and clearly designated for that purpose at the principal office.

8. If the memorial [interchange] designation request is not approved by the joint committee on transportation oversight, ninety-seven percent of the application fee shall be refunded to the applicant.

9. Two signs shall be erected for each interchange, **bridge, or highway** designation processed under this section.

10. No interchange, **bridge, or highway** may be named or designated after more than one member of the United States Armed Forces killed in action. Such person shall only be eligible for one interchange, **bridge, or highway** designation under the provisions of this section.

11. Any highway signs erected for any [interchange] designation under the provisions of this section shall be erected and maintained for a twenty-year period. After such period, the signs shall be subject to removal by the department of transportation and the interchange, **bridge, or highway** may be designated to honor persons other than the current designee. An existing [interchange] designation processed under the provisions of this section may be retained for additional twenty-year increments if, at least one year before the designation's expiration, an

application to the department of transportation is made to retain the designation along with the required documents and all applicable fees required under this section.

227.380. THEODORE MCNEAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 115 IN ST. LOUIS CITY. — The portion of State Highway 115 in St. Louis City from the intersection of Natural Bridge Avenue and Salisbury Street west to the intersection of State Highway 115 and Jennings Station Road shall be designated the "Theodore McNeal Highway". Cost for such designation shall be paid by private donations.

227.417. JERRY CORP MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF U.S. HIGHWAY 160 IN OZARK COUNTY. — The portion of U.S. Highway 160 in Ozark County from the bridge that crosses Bryant Creek to a location two and one-half miles east of such bridge shall be known as the "Jerry Corp Memorial Highway". The costs for such designation shall be paid by private donations.

227.419. HARRIET BEARD HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 63 FROM ADAIR-MACON COUNTY LINE TO NORTHERN BORDER OF CITY OF KIRKSVILLE. — The portion of Highway 63 from the Adair-Macon County line to the northern border of the city limits of the city of Kirksville shall be designated the "Harriet Beard Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with costs to be paid by private donations.

227.428. RANDY BEVER MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF BUSINESS HIGHWAY 71 IN ANDREW COUNTY. — The portion of Business Highway 71 from the Interstate 29 intersection traveling north for two miles and located in Andrew County shall be designated as the "Randy Bever Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with the cost for such designation to be paid by private donation.

227.523. IRWIN C. CUDWORTH MEMORIAL BRIDGE DESIGNATED ON HIGHWAY CC IN OZARK COUNTY. — The bridge on Highway CC crossing over North Fork White River in Ozark County shall be designated the "Irwin C. Cudworth Memorial Bridge". The department of transportation shall erect and maintain appropriate signs designating such bridge, with the costs of such designation to be paid for by private donations.

227.524. RAY-CARROLL COUNTY VETERANS MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF HIGHWAY 10. — The portion of Highway 10 from the western border of the city limits of Norborne in Carroll County to the eastern border of the city limits of Hardin in Ray County shall be designated the "Ray-Carroll County Veterans Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with costs to be paid by private donations.

227.525. BILLY YATES HIGHWAY DESIGNATED FOR PORTION OF U.S. HIGHWAY 160 IN RIPLEY COUNTY. — The portion of U.S. Highway 160 in Ripley County which is located within the city limits of Doniphan shall be designated the "Billy Yates Highway". The department of transportation shall erect and maintain appropriate signs designating such highway, with the costs to be paid for by private donation.

227.526. VETERANS MEMORIAL EXPRESSWAY DESIGNATED FOR PORTION OF HIGHWAY 54 IN CAMDEN COUNTY. — The portion of Highway 54 from the Grand Glaize Bridge in Camden County to Key Largo Road in Camden County shall be designated the "Veterans Memorial Expressway". The department of transportation shall erect and

maintain appropriate signs designating such highway with costs to be paid by private donations.

227.527. DONALD LEE COOK MEMORIAL HIGHWAY DESIGNATED FOR PORTION OF STATE HIGHWAY 21 IN REYNOLDS COUNTY. — The portion of State Highway 21 from State Route U continuing through the city of Lesterville to Elm Street in Lesterville located in Reynolds County shall be designated as the "Donald Lee Cook Memorial Highway". The department of transportation shall erect and maintain appropriate signs designating such highway with the cost for such designation to be paid by private donation.

Approved June 25, 2015

HB 524 [HB 524]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows the Director of the Department of Revenue to adopt rules and regulations allowing specified motor vehicle or trailer lienholders to electronically release a lien

AN ACT to repeal sections 301.640 and 306.420 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 301.640 as enacted by senate bill no. 82, ninety-fourth general assembly, first regular session, and section 306.420 as enacted by house bill no. 2008 merged with senate bill no. 895, ninety-first general assembly, second regular session, and section 700.370, RSMo, and to enact in lieu thereof four new sections relating to the electronic transmission of motor vehicle lien documents.

SECTION

- A. Enacting clause.
- 32.096. Electronic release of liens filed electronically — rulemaking authority.
- 301.640. Beginning January 1, 2017 — Release of lienholders' rights upon satisfaction of lien or encumbrance, procedure — issuance of new certificate of ownership — certain liens deemed satisfied, when — penalty — rulemaking authority.
- 301.640. Until December 31, 2016 — Release of lienholders' rights upon satisfaction of lien or encumbrance, procedure — issuance of new certificate of ownership — certain liens deemed satisfied, when — penalty — rulemaking authority.
- 306.420. Beginning January 1, 2017 — Satisfaction of lien or encumbrance, release of, procedure — duties of lienholder and director of revenue — penalty for unauthorized release of a lien.
- 306.420. Until December 31, 2016 — Satisfaction of lien or encumbrance, release of, procedure — duties of lienholder and director of revenue — penalty for unauthorized release of a lien.
- 700.370. Satisfaction of lien or encumbrance, release of, procedure.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.640 and 306.420 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, section 301.640 as enacted by senate bill no. 82, ninety-fourth general assembly, first regular session, and section 306.420 as enacted by house bill no. 2008 merged with senate bill no. 895, ninety-first general assembly, second regular session, and section 700.370, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 32.096, 301.640, 306.420, and 700.370, to read as follows:

32.096. ELECTRONIC RELEASE OF LIENS FILED ELECTRONICALLY — RULEMAKING AUTHORITY. — **1. The director of revenue may adopt rules and regulations that authorize a lienholder to electronically release a lien on property titled with the department of**

revenue. Only liens filed electronically with the department may be released electronically. Once the lien has been released, the department shall electronically confirm receipt of such release.

2. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

301.640. BEGINNING JANUARY 1, 2017 — RELEASE OF LIENHOLDERS' RIGHTS UPON SATISFACTION OF LIEN OR ENCUMBRANCE, PROCEDURE — ISSUANCE OF NEW CERTIFICATE OF OWNERSHIP — CERTAIN LIENS DEEMED SATISFIED, WHEN — PENALTY — RULEMAKING AUTHORITY. — 1. Within five business days after the satisfaction of any lien or encumbrance of a motor vehicle or trailer, the lienholder shall release the lien or encumbrance on the certificate, [or] on a separate document, **or electronically under section 32.096 and any rules and regulations adopted thereunder**, and mail or deliver the certificate or a separate document to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate or such documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The owner may cause the certificate to be mailed or delivered to the director of revenue, who shall issue a new certificate of ownership upon application and payment of the required fee. A lien or encumbrance shall be satisfied for the purposes of this section when a lienholder receives payment in full in the form of certified funds, as defined in section 381.410, or when the lienholder receives payment in full electronically or by way of electronic funds transfer, whichever first occurs.

2. If the electronic certificate of ownership is in the possession of the director of revenue, the lienholder shall notify the director within five business days after any release of a lien and provide the director with the most current address of the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate or such documentation. The director shall note such release on the electronic certificate and if no other lien exists the director shall mail or deliver the certificate free of any lien to the owner or any person who has delivered to the lienholder an authorization from the owner to receive the certificate or such documentation from the director.

3. If the purchase price of a motor vehicle or trailer did not exceed six thousand dollars at the time of purchase, a lien or encumbrance which was not perfected by a motor vehicle financing corporation whose net worth exceeds one hundred million dollars, or a depository institution, shall be considered satisfied within six years from the date the lien or encumbrance was originally perfected unless a new lien or encumbrance has been perfected as provided in section 301.600. This subsection does not apply to motor vehicles or trailers for which the certificate of ownership has recorded in the second lienholder portion the words "subject to future advances".

4. Any lienholder who fails to timely comply with subsection 1 or 2 of this section shall pay to the person or persons satisfying the lien or encumbrance liquidated damages up to a maximum of two thousand five hundred dollars for each lien. Liquidated damages shall be five hundred dollars if the lienholder does not comply within five business days after satisfaction of the lien or encumbrance. Liquidated damages shall be one thousand dollars if the lienholder does not comply within ten business days after satisfaction of the lien or encumbrance. Liquidated damages shall be two thousand dollars if the lienholder does not comply within fifteen business days after satisfaction of the lien or encumbrance. Liquidated damages shall be two thousand

five hundred dollars if the lienholder does not comply within twenty business days after satisfaction of the lien or encumbrance. If delivery of the certificate or other lien release is made by mail, the delivery date is the date of the postmark for purposes of this subsection. In computing any period of time prescribed or allowed by this section, the day of the act or event after which the designated period of time begins to run is not to be counted. However, the last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

5. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class D felony.

301.640. UNTIL DECEMBER 31, 2016 — RELEASE OF LIENHOLDERS' RIGHTS UPON SATISFACTION OF LIEN OR ENCUMBRANCE, PROCEDURE — ISSUANCE OF NEW CERTIFICATE OF OWNERSHIP — CERTAIN LIENS DEEMED SATISFIED, WHEN — PENALTY — RULEMAKING AUTHORITY. — 1. Within five business days after the satisfaction of any lien or encumbrance of a motor vehicle or trailer, the lienholder shall release the lien or encumbrance on the certificate, [or] on a separate document, **or electronically under section 32.096 and any rules and regulations adopted thereunder**, and mail or deliver the certificate or a separate document to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate or such documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The owner may cause the certificate to be mailed or delivered to the director of revenue, who shall issue a new certificate of ownership upon application and payment of the required fee. A lien or encumbrance shall be satisfied for the purposes of this section when a lienholder receives payment in full in the form of certified funds, as defined in section 381.410, or when the lienholder receives payment in full electronically or by way of electronic funds transfer, whichever first occurs.

2. If the electronic certificate of ownership is in the possession of the director of revenue, the lienholder shall notify the director within five business days after any release of a lien and provide the director with the most current address of the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate or such documentation. The director shall note such release on the electronic certificate and if no other lien exists the director shall mail or deliver the certificate free of any lien to the owner or any person who has delivered to the lienholder an authorization from the owner to receive the certificate or such documentation from the director.

3. If the purchase price of a motor vehicle or trailer did not exceed six thousand dollars at the time of purchase, a lien or encumbrance which was not perfected by a motor vehicle financing corporation whose net worth exceeds one hundred million dollars, or a depository institution, shall be considered satisfied within six years from the date the lien or encumbrance was originally perfected unless a new lien or encumbrance has been perfected as provided in section 301.600. This subsection does not apply to motor vehicles or trailers for which the certificate of ownership has recorded in the second lienholder portion the words "subject to future advances".

4. Any lienholder who fails to timely comply with subsection 1 or 2 of this section shall pay to the person or persons satisfying the lien or encumbrance liquidated damages up to a maximum of two thousand five hundred dollars for each lien. Liquidated damages shall be five hundred dollars if the lienholder does not comply within five business days after satisfaction of the lien or encumbrance. Liquidated damages shall be one thousand dollars if the lienholder does not comply within ten business days after satisfaction of the lien or encumbrance. Liquidated damages shall be two thousand dollars if the lienholder does not comply within fifteen business days after satisfaction of the lien or encumbrance. Liquidated damages shall be two thousand five hundred dollars if the lienholder does not comply within twenty business days after

satisfaction of the lien or encumbrance. If delivery of the certificate or other lien release is made by mail, the delivery date is the date of the postmark for purposes of this subsection. In computing any period of time prescribed or allowed by this section, the day of the act or event after which the designated period of time begins to run is not to be counted. However, the last day of the period so computed is to be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday.

5. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class C felony.

306.420. BEGINNING JANUARY 1, 2017 — SATISFACTION OF LIEN OR ENCUMBRANCE, RELEASE OF, PROCEDURE — DUTIES OF LIENHOLDER AND DIRECTOR OF REVENUE — PENALTY FOR UNAUTHORIZED RELEASE OF A LIEN. — 1. Upon the satisfaction of a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft, the lienholder shall within ten days execute a release of his or her lien or encumbrance[,] on the certificate, [or] on a separate document, **or electronically under section 32.096 and any rules and regulations adopted thereunder**, and mail or deliver the certificate or separate document to the owner or any person who delivers to the lienholder an authorization from the owner to receive the documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

2. If the electronic certificate of title is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists, the director shall mail or deliver the certificate free of any lien to the owner.

3. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class D felony.

306.420. UNTIL DECEMBER 31, 2016 — SATISFACTION OF LIEN OR ENCUMBRANCE, RELEASE OF, PROCEDURE — DUTIES OF LIENHOLDER AND DIRECTOR OF REVENUE — PENALTY FOR UNAUTHORIZED RELEASE OF A LIEN. — 1. Upon the satisfaction of a lien or encumbrance on an outboard motor, motorboat, vessel, or watercraft, the lienholder shall within ten days execute a release of his or her lien or encumbrance[,] on the certificate, [or] on a separate document, **or electronically under section 32.096 and any rules and regulations adopted thereunder**, and mail or deliver the certificate or separate document to the owner or any person who delivers to the lienholder an authorization from the owner to receive the documentation. The release on the certificate or separate document shall be notarized. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

2. If the electronic certificate of title is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists, the director shall mail or deliver the certificate free of any lien to the owner.

3. Any person who knowingly and intentionally sends in a separate document releasing a lien of another without authority to do so shall be guilty of a class C felony.

700.370. SATISFACTION OF LIEN OR ENCUMBRANCE, RELEASE OF, PROCEDURE. — 1. Upon the satisfaction of a lien or encumbrance on a manufactured home, the lienholder shall, within ten days after demand, release the lien or encumbrance on the certificate, [or] **on a separate document, or electronically under section 32.096 and any rules and regulations adopted thereunder,** and mail or deliver the certificate or separate document to the owner or any person who delivers to the lienholder an authorization from the owner to receive the certificate or separate document. Each perfected subordinate lienholder, if any, shall release such lien or encumbrance as provided in this section for the first lienholder. The release on the certificate or separate document shall be notarized. The owner may cause the certificate of title, the release, and the required fee to be mailed or delivered to the director of revenue, who shall release the lienholder's rights on the certificate and issue a new certificate of title.

2. If the electronic certificate of ownership is in the possession of the director of revenue, the lienholder shall notify the director within ten business days of any release of a lien and provide the director with the most current address of the owner. The director shall note such release on the electronic certificate and if no other lien exists the director shall mail or deliver the certificate free of any lien to the owner.

Approved June 30, 2015

HB 531 [HB 531]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Requires liquid nicotine products to be sold in child-safe packaging

AN ACT to repeal section 407.926, RSMo, and to enact in lieu thereof one new section relating to child-resistant packaging for liquid nicotine containers, with penalty provisions.

SECTION

A. Enacting clause.

407.926. No tobacco sales to minors — penalties — alternative nicotine products and vapor products, sale to minors prohibited — nicotine liquid containers, requirements, penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 407.926, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.926, to read as follows:

407.926. NO TOBACCO SALES TO MINORS — PENALTIES — ALTERNATIVE NICOTINE PRODUCTS AND VAPOR PRODUCTS, SALE TO MINORS PROHIBITED — NICOTINE LIQUID CONTAINERS, REQUIREMENTS, PENALTY. — 1. Any person or entity who sells tobacco products, alternative nicotine products, or vapor products shall deny the sale of such tobacco products to any person who is less than eighteen years of age.

2. Any person or entity who sells or distributes tobacco products, alternative nicotine products, or vapor products by mail or through the internet in this state in violation of subsection 1 of this section shall be assessed a fine of two hundred fifty dollars for the first violation and five hundred dollars for each subsequent violation.

3. Alternative nicotine products and vapor products shall only be sold to persons eighteen years of age or older, shall be subject to local and state sales tax, but shall not be otherwise taxed or regulated as tobacco products.

4. (1) Any nicotine liquid container that is sold at retail in this state shall satisfy the child-resistant effectiveness standards set forth in 16 CFR 1700.15(b) as in effect on the

effective date of this section when tested in accordance with the method described in 16 CFR 1700.20 as in effect on the effective date of this section.

(2) For the purposes of this subsection, "nicotine liquid container" shall mean a bottle or other container of liquid or other substance containing nicotine if the liquid or substance is sold, marketed, or intended for use in a vapor product. A "nicotine liquid container" shall not include a liquid or other substance containing nicotine in a cartridge that is sold, marketed, or intended for use in a vapor product, provided that such cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer.

(3) Any person who engages in retail sales of liquid nicotine containers in this state in violation of this subsection shall be assessed a fine of two hundred fifty dollars for the first violation and five hundred dollars for each subsequent violation.

(4) The department of health and senior services may adopt rules necessary to carry out the provisions of this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

(5) The provisions of this subsection and any rules adopted hereunder shall be null, void, and of no force and effect upon the effective date of the final regulations issued by the federal Food and Drug Administration or from any other federal agency if such regulations mandate child-resistant effectiveness standards for nicotine liquid containers.

Approved July 8, 2015

HB 567 [HB 567]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates December 4 as "Alpha Phi Alpha Day" in Missouri in honor of the first black intercollegiate Greek-letter fraternity established for African-Americans

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of Alpha Phi Alpha day.

SECTION

- A. Enacting clause.
9.162. December 4, Alpha Phi Alpha Day.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.162, to read as follows:

9.162. DECEMBER 4, ALPHA PHI ALPHA DAY. — 1. December fourth is hereby designated as "Alpha Phi Alpha Day" in the state of Missouri. The citizens of this state are encouraged to observe the day with appropriate activities and events to commemorate the founding of the first black intercollegiate Greek-letter fraternity established for African-Americans.

2. Alpha Phi Alpha Fraternity, Inc., was founded on Tuesday, December 4, 1906, at Cornell University in Ithaca, New York. Given racial attitudes in 1906, the accomplishments of the original founding members, Dr. Henry Arthur Callis, Charles Henry Chapman, Eugene Kinckle Jones, George Biddle Kelley, Nathaniel Allison Murray, Robert Harold Ogle, and Vertner Woodson Tandy, known as the "Seven Jewels" were monumental. These men were determined to bind themselves together to ensure that each would survive the racially hostile environment. In coming together with the simple act of founding the Alpha Phi Alpha fraternity, these men set outstanding examples of scholarship, leadership, and tenacity.

3. Today, Alpha Phi Alpha and its more than two hundred ninety thousand members and more than seven hundred thirty chapters over five continents continues its commitment to members of the fraternity and the African-American community by dedicating itself to fostering the spirit of brotherhood, training a new generation of leaders, building the technological capacity of members, bringing consistency to the implementation of the fraternity's national programs, and ensuring that chapters have the necessary preparation to implement fraternal incentives and day-to-day operations. The Fraternity aims are manly deeds, scholarship, and love for all mankind, and its motto is "First of All, Servants of All, We Shall Transcend All."

4. Famous Alpha Phi Alpha members include W.E.B. DuBois, civil rights activist and founder of the NAACP; Duke Ellington, jazz musician; Fredrick Douglass, author, abolitionist, and civil rights activist; Thurgood Marshall, former United States Supreme Court Justice and manager of the landmark United States Supreme Court case *Brown v. Board of Education* which declared segregation unconstitutional; Jesse Owens, Olympic gold medalist; Emanuel Cleaver II, United States Representative from Missouri; and Dr. Martin Luther King, Jr., civil rights activist and the fraternity's most recognized member.

5. The Beta Lambda Chapter, chartered in Kansas City, Missouri, in 1919, is Alpha Phi Alpha fraternity's second-oldest alumni chapter and the first established west of the Mississippi River.

Approved July 6, 2015

HB 587 [HCS HB 587]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to licensing fees paid to the Division of Finance by entities and persons licensed under the Missouri Sale of Checks Law, credit service organizations, and consumer credit lenders

AN ACT to repeal sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, and 408.500, RSMo, and to enact in lieu thereof eight new sections relating to licensing fees paid to the director of the division of finance.

SECTION

- A. Enacting clause.
- 361.707. Application for license, content — investigation fee, applied to license fee, when.
- 361.715. License issued upon investigation, when — fee — charge for applications to amend and reissue.
- 364.030. Financial institutions to obtain license, exceptions — application — fee.
- 364.105. Registration required — fee — forms.
- 365.030. Sales finance company, license required — exceptions — application — fee.
- 367.140. Annual registration — fee, amount — certificates, issuance, display.
- 407.640. Registration statements, filing, contents — fee.

408.500. Unsecured loans of five hundred dollars or less, licensure of lenders, interest rates and fees allowed — penalties for violations — cost of collection expenses — notice required, form.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, and 408.500, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 361.707, 361.715, 364.030, 364.105, 365.030, 367.140, 407.640, and 408.500, to read as follows:

361.707. APPLICATION FOR LICENSE, CONTENT — INVESTIGATION FEE, APPLIED TO LICENSE FEE, WHEN. — 1. Each application for a license pursuant to sections 361.700 to 361.727 shall be in writing and under oath to the director in such form as he may prescribe. The application shall state the full name and business address of:

- (1) The proprietor, if the applicant is an individual;
- (2) Every member, if the applicant is a partnership or association;
- (3) The corporation and each officer and director thereof, if the applicant is a corporation.

2. Each application for a license shall be accompanied by an investigation fee of [one] **three** hundred dollars. If the license is granted the investigation fee shall be applied to the license fee for the first year. No investigation fee shall be refunded.

361.715. LICENSE ISSUED UPON INVESTIGATION, WHEN — FEE — CHARGE FOR APPLICATIONS TO AMEND AND REISSUE. — 1. Upon the filing of the application, the filing of a certified audit, the payment of the investigation fee and the approval by the director of the necessary bond, the director shall cause, investigate, and determine whether the character, responsibility, and general fitness of the principals of the applicant or any affiliates are such as to command confidence and warrant belief that the business of the applicant will be conducted honestly and efficiently and that the applicant is in compliance with all other applicable state and federal laws. If satisfied, the director shall issue to the applicant a license pursuant to the provisions of sections 361.700 to 361.727. In processing a renewal license, the director shall require the same information and follow the same procedures described in this subsection.

2. Each licensee shall pay to the director before the issuance of the license, and annually thereafter on or before April fifteenth of each year, a license fee of [one] **three** hundred dollars.

3. The director may assess a reasonable charge, not to exceed [one] **three** hundred dollars, for any application to amend and reissue an existing license.

364.030. FINANCIAL INSTITUTIONS TO OBTAIN LICENSE, EXCEPTIONS — APPLICATION — FEE. — 1. No person shall engage in the business of a financing institution in this state without a license therefor as provided in this chapter; except, however, that no bank, trust company, loan and investment company, licensed sales finance company, registrant under the provisions of sections 367.100 to 367.200, or person who makes only occasional purchases of retail time contracts or accounts under retail charge agreements and which purchases are not being made in the course of repeated or successive purchase of retail installment contracts from the same seller, shall be required to obtain a license under this chapter but shall comply with all the laws of this state applicable to the conduct and operation of a financing institution.

2. The application for the license shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, and other pertinent information as the director may require.

3. The license fee for each calendar year or part thereof shall be the sum of [three] **five** hundred dollars for each place of business of the licensee in this state which shall be paid into

the general revenue fund. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

4. Each license shall specify the location of the office or branch and must be conspicuously displayed therein. In case the location is changed, the director shall either endorse the change of location of the license or mail the licensee a certificate to that effect, without charge.

5. Upon the filing of an application, and the payment of the fee, the director shall issue a license to the applicant to engage in the business of a financing institution under and in accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by this chapter under any other name.

364.105. REGISTRATION REQUIRED — FEE — FORMS. — 1. No person shall engage in the business of a premium finance company in this state without first registering as a premium finance company with the director.

2. The annual registration fee shall be [three] **five** hundred dollars payable to the director as of the first day of July of each year. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

3. Registration shall be made on forms prepared by the director and shall contain the following information:

- (1) Name, business address and telephone number of the premium finance company;
- (2) Name and business address of corporate officers and directors or principals or partners;
- (3) A sworn statement by an appropriate officer, principal or partner of the premium finance company that:
 - (a) The premium finance company is financially capable to engage in the business of insurance premium financing; and
 - (b) If a corporation, that the corporation is authorized to transact business in this state;
- (4) If any material change occurs in the information contained in the registration form, a revised statement shall be submitted to the director accompanied by an additional fee of [one] **three** hundred dollars.

365.030. SALES FINANCE COMPANY, LICENSE REQUIRED — EXCEPTIONS — APPLICATION — FEE. — 1. No person shall engage in the business of a sales finance company in this state without a license as provided in this chapter; except, that no bank, trust company, savings and loan association, loan and investment company or registrant under the provisions of sections 367.100 to 367.200 authorized to do business in this state is required to obtain a license under this chapter but shall comply with all of the other provisions of this chapter.

2. The application for the license shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers, and such other pertinent information as the director may require.

3. The license fee for each calendar year or part thereof shall be the sum of [three] **five** hundred dollars for each place of business of the licensee in this state. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

4. Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case the location is changed, the director shall either endorse the change of location on the license or mail the licensee a certificate to that effect, without charge.

5. Upon the filing of the application, and the payment of the fee, the director shall issue a license to the applicant to engage in the business of a sales finance company under and in

accordance with the provisions of this chapter for a period which shall expire the last day of December next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by this chapter under any other name.

367.140. ANNUAL REGISTRATION — FEE, AMOUNT — CERTIFICATES, ISSUANCE, DISPLAY. — 1. Every lender shall, at the time of filing application for certificate of registration as provided in section 367.120 hereof, pay the sum of [three] **five** hundred dollars as an annual registration fee for the period ending the thirtieth day of June next following the date of payment and in full payment of all expenses for investigations, examinations and for the administration of sections 367.100 to 367.200, except as provided in section 367.160, and thereafter a like fee shall be paid on or before June thirtieth of each year; provided, that if a lender is supervised by the commissioner of finance under any other law, the charges for examination and supervision required to be paid under said law shall be in lieu of the annual fee for registration and examination required under this section. The fee shall be made payable to the director of revenue. If the initial registration fee for any certificate of registration is for a period of less than twelve months, the registration fee shall be prorated according to the number of months that said period shall run. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time.

2. Upon receipt of such fee and application for registration, and provided the bond, if required by the director, has been filed, the director shall issue to the lender a certificate containing the lender's name and address and reciting that such lender is duly and properly registered to conduct the supervised business. The lender shall keep this certificate of registration posted in a conspicuous place at the place of business recited in the registration certificate. Where the lender engages in the supervised business at or from more than one office or place of business, such lender shall obtain a separate certificate of registration for each such office or place of business.

3. Certificates of registration shall not be assignable or transferable except that the lender named in any such certificate may obtain a change of address of the place of business therein set forth. Each certificate of registration shall remain in full force and effect until surrendered, revoked, or suspended as herein provided.

407.640. REGISTRATION STATEMENTS, FILING, CONTENTS — FEE. — 1. A credit services organization shall file a registration statement with the director of finance before conducting business in this state. The registration statement must contain:

(1) The name and address of the credit services organization; and
(2) The name and address of any person who directly or indirectly owns or controls ten percent or more of the outstanding shares of stock in the credit services organization.

2. The registration statement must also contain either:

(1) A full and complete disclosure of any litigation or unresolved complaint filed by or with a governmental authority of this state relating to the operation of the credit services organization; or

(2) A notarized statement that states that there has been no litigation or unresolved complaint filed by or with a governmental authority of this state relating to the operation of the credit services organization.

3. The credit services organization shall update the statement not later than the ninetieth day after the date on which a change in the information required in the statement occurs.

4. Each credit services organization registering under this section shall maintain a copy of the registration statement in the office of the credit services organization. The credit services organization shall allow a buyer to inspect the registration statement on request.

5. The director of finance may charge each credit services organization that files a registration statement with the director of finance a reasonable fee not to exceed [one] **three**

hundred dollars to cover the cost of filing. The director of finance may not require a credit services organization to provide information other than that provided in the registration statement as part of the registration process.

408.500. UNSECURED LOANS OF FIVE HUNDRED DOLLARS OR LESS, LICENSURE OF LENDERS, INTEREST RATES AND FEES ALLOWED — PENALTIES FOR VIOLATIONS — COST OF COLLECTION EXPENSES — NOTICE REQUIRED, FORM. — 1. Lenders, other than banks, trust companies, credit unions, savings banks and savings and loan companies, in the business of making unsecured loans of five hundred dollars or less shall obtain a license from the director of the division of finance. An annual license fee of [three] **five** hundred dollars per location shall be required. The license year shall commence on January first each year and the license fee may be prorated for expired months. The director may establish a biennial licensing arrangement but in no case shall the fees be payable for more than one year at a time. The provisions of this section shall not apply to pawnbroker loans, consumer credit loans as authorized under chapter 367, nor to a check accepted and deposited or cashed by the payee business on the same or the following business day. The disclosures required by the federal Truth in Lending Act and regulation Z shall be provided on any loan, renewal or extension made pursuant to this section and the loan, renewal or extension documents shall be signed by the borrower.

2. Entities making loans pursuant to this section shall contract for and receive simple interest and fees in accordance with sections 408.100 and 408.140. Any contract evidencing any fee or charge of any kind whatsoever, except for bona fide clerical errors, in violation of this section shall be void. Any person, firm or corporation who receives or imposes a fee or charge in violation of this section shall be guilty of a class A misdemeanor.

3. Notwithstanding any other law to the contrary, cost of collection expenses, which include court costs and reasonable attorneys fees, awarded by the court in suit to recover on a bad check or breach of contract shall not be considered as a fee or charge for purposes of this section.

4. Lenders licensed pursuant to this section shall conspicuously post in the lobby of the office, in at least fourteen-point bold type, the maximum annual percentage rates such licensee is currently charging and the statement: NOTICE:

This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

5. The lender shall provide the borrower with a notice in substantially the following form set forth in at least ten-point bold type, and receipt thereof shall be acknowledged by signature of the borrower:

(1) This lender offers short-term loans. Please read and understand the terms of the loan agreement before signing.

(2) You may cancel this loan without costs by returning the full principal balance to the lender by the close of the lender's next full business day.

6. The lender shall renew the loan upon the borrower's written request and the payment of any interest and fees due at the time of such renewal; however, upon the first renewal of the loan agreement, and each subsequent renewal thereafter, the borrower shall reduce the principal amount of the loan by not less than five percent of the original amount of the loan until such loan is paid in full. However, no loan may be renewed more than six times.

7. When making or negotiating loans, a licensee shall consider the financial ability of the borrower to reasonably repay the loan in the time and manner specified in the loan contract. All records shall be retained at least two years.

8. A licensee who ceases business pursuant to this section must notify the director to request an examination of all records within ten business days prior to cessation. All records must be retained at least two years.

9. Any lender licensed pursuant to this section who fails, refuses or neglects to comply with the provisions of this section, or any laws relating to consumer loans or commits any criminal act may have its license suspended or revoked by the director of finance after a hearing before

the director on an order of the director to show cause why such order of suspension or revocation should not be entered specifying the grounds therefor which shall be served on the licensee at least ten days prior to the hearing.

10. Whenever it shall appear to the director that any lender licensed pursuant to this section is failing, refusing or neglecting to make a good faith effort to comply with the provisions of this section, or any laws relating to consumer loans, the director may issue an order to cease and desist which order may be enforceable by a civil penalty of not more than one thousand dollars per day for each day that the neglect, failure or refusal shall continue. The penalty shall be assessed and collected by the director. In determining the amount of the penalty, the director shall take into account the appropriateness of the penalty with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

Approved June 22, 2015

HB 613 [SCS HCS HB 613]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding the collection of property taxes

AN ACT to repeal sections 52.260, 65.620, 137.076, 140.170, 140.310, 140.340, 140.350, 140.405, 140.410, 140.420, and 231.444, RSMo, and to enact in lieu thereof thirteen new sections relating to the collection of property taxes.

SECTION

- A. Enacting clause.
- 52.260. Fees for collecting certain taxes and fees to be deposited in county general revenue fund (certain counties).
- 65.620. Abolition of township government — effect.
- 137.018. Certain merchandise exempt from ad valorem taxes.
- 137.076. Valuation by assessor, factors to be considered — income-based approach for assessment of parcels.
- 140.170. County collector to publish delinquent land list — contents — site of sale — expenses — publisher's affidavit to be recorded — exception for certain property, contents of list.
- 140.195. Entry on property not trespass, when.
- 140.310. Possession by purchaser, when — rents — rights of occupant and purchaser.
- 140.340. Redemption, when — manner.
- 140.350. Redemption by minors and incapacitated or disabled persons, when.
- 140.405. Purchaser of property at delinquent land tax auction, deed issued to, when — notice of right of redemption — redemption of property first, when — loss of interest, when — notice, authorized manner.
- 140.410. Execution and record of deed by purchaser — failure — assignment prohibited, when — recording fee required, when.
- 140.420. Deed to purchaser if unredeemed.
- 231.444. County road tax — counties of the third and fourth classification — special road rock fund.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 52.260, 65.620, 137.076, 140.170, 140.310, 140.340, 140.350, 140.405, 140.410, 140.420, and 231.444, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 52.260, 65.620, 137.018, 137.076, 140.170, 140.195, 140.310, 140.340, 140.350, 140.405, 140.410, 140.420, and 231.444, to read as follows:

52.260. FEES FOR COLLECTING CERTAIN TAXES AND FEES TO BE DEPOSITED IN COUNTY GENERAL REVENUE FUND (CERTAIN COUNTIES). — The collector in counties not having township organization shall collect on behalf of the county the following fees for collecting all

state, county, bridge, road, school, back and delinquent, and all other local taxes, including merchants', manufacturers' and liquor and beer licenses, other than ditch and levee taxes, and the fees collected shall be deposited in the county general fund:

(1) In all counties wherein the total amount levied for any one year exceeds two hundred and fifty thousand dollars and is less than three hundred and fifty thousand dollars, a fee of two and one-half percent on the amount collected;

(2) In all counties wherein the total amount levied for any one year exceeds three hundred and fifty thousand dollars and is less than [two] **three** million dollars, a fee of two and one-half percent on the first three hundred and fifty thousand dollars collected and one percent on whatever amount may be collected over three hundred and fifty thousand dollars;

(3) In all counties wherein the total amount levied for any one year exceeds [two] **three** million dollars, a fee of one percent on the amounts collected.

65.620. ABOLITION OF TOWNSHIP GOVERNMENT — EFFECT. — 1. Whenever any county abolishes township organization the county treasurer and ex officio collector shall immediately settle his accounts as treasurer with the county commission and shall thereafter perform all duties, exercise all powers, have all rights and be subject to all liabilities imposed and conferred upon the county collector of revenue under chapter 52 until the first Monday in March after the general election next following the abolishment of township organization and until a collector of revenue for the county is elected and qualified. The person elected collector at the general election as aforesaid, if that election is not one for collector of revenue under chapter 52, shall serve until the first Monday in March following the election and qualification of a collector of revenue under chapter 52. Upon abolition of township organization a county treasurer shall be appointed to serve until the expiration of the term of such officer pursuant to chapter 54.

2. Upon abolition of township organization, title to all property of all kinds theretofore owned by the several townships of the county shall vest in the county and the county shall be liable for all outstanding obligations and liabilities of the several townships.

3. The terms of office of all township officers shall expire on the abolition of township organization and the township trustee of each township shall immediately settle his accounts with the county clerk and all township officers shall promptly deliver to the appropriate county officers, as directed by the county commission, all books, papers, records and property pertaining to their offices.

4. For a period of one calendar year following the abolition of the townships or until the voters of the county have approved a tax levy for road and bridge purposes, whichever occurs first, the county collector shall continue to collect a property tax on a county-wide basis in an amount equal to the tax levied by the township that had the lowest total tax rate in the county immediately prior to the abolishment of the townships. The continued collection of the tax shall be considered a continuation of an existing tax and shall not be considered a new tax levy.

137.018. CERTAIN MERCHANDISE EXEMPT FROM AD VALOREM TAXES. — 1. As used in this section, the term "merchandise" shall include short term rentals of equipment and other merchandise offered for short term rentals by rental companies under 532412 or 532210 of the 2012 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget, which will subsequently or ultimately sell such merchandise or equipment. As used in this section, the term "short term rental" shall mean rentals for a period of less than three hundred sixty-five consecutive days, for an undefined period, or under an open-ended contract.

2. For the purposes of article X, section 6 of the Constitution of Missouri, all merchandise held or owned by a merchant whether or not currently subject to a short term rental and which will subsequently or ultimately be sold shall be considered inventory and exempt from ad valorem taxes.

137.076. VALUATION BY ASSESSOR, FACTORS TO BE CONSIDERED — INCOME-BASED APPROACH FOR ASSESSMENT OF PARCELS. — 1. In establishing the value of a parcel of real property the county assessor shall consider current market conditions and previous decisions of the county board of equalization, the state tax commission or a court of competent jurisdiction that affected the value of such parcel. For purposes of this section, the term "current market conditions", shall include the impact upon the housing market of foreclosures and bank sales.

2. In establishing the value of a parcel of real property, the county assessor shall use an income based approach for assessment of parcels of real property with federal or state imposed restrictions in regard to rent limitations, operations requirements, or any other restrictions imposed upon the property in connection with:

(1) The property being eligible for any income tax credits under section 42 of the Internal Revenue Code of 1986, as amended;

(2) Property constructed with the use of the United States Department of Housing and Urban Development HOME investment partnerships program;

(3) Property constructed with the use of incentives provided by the United States Department of Agriculture Rural Development; or

(4) Property receiving any other state or federal subsidies provided with respect to use of the property for housing purposes.

For the purposes of this subsection, the term "income based approach" shall include the use of direct capitalization methodology and computed by dividing the net operating income of the parcel of property by an appropriate capitalization rate not to exceed the average of the current market data available in the county of said parcel of property. Federal and state tax credits or other subsidies shall not be used when calculating the capitalization rate. Upon expiration of a land use restriction agreement, such parcel of property shall no longer be subject to this subsection.

140.170. COUNTY COLLECTOR TO PUBLISH DELINQUENT LAND LIST — CONTENTS — SITE OF SALE — EXPENSES — PUBLISHER'S AFFIDAVIT TO BE RECORDED — EXCEPTION FOR CERTAIN PROPERTY, CONTENTS OF LIST. — 1. Except for lands described in subsection 7 of this section, the county collector shall cause a copy of the list of delinquent lands and lots to be printed in some newspaper of general circulation published in the county for three consecutive weeks, one insertion weekly, before the sale, the last insertion to be at least fifteen days prior to the fourth Monday in August.

2. In addition to the names of all record owners or the names of all owners appearing on the land tax book it is only necessary in the printed and published list to state in the aggregate the amount of taxes, penalty, interest and cost due thereon, each year separately stated.

3. To the list shall be attached and in like manner printed and published a notice of said lands and lots stating that said land and lots will be sold at public auction to discharge the taxes, penalty, interest, and costs due thereon at the time of sale in or adjacent to the courthouse of such county, on the fourth Monday in August next thereafter, commencing at ten o'clock of said day and continuing from day to day thereafter until all are offered.

4. The county collector, on or before the day of sale, shall insert at the foot of the list on his **or her** record a copy of the notice and certify on his **or her** record immediately following the notice the name of the newspaper of the county in which the notice was printed and published and the dates of insertions thereof in the newspaper.

5. The expense of such printing shall be paid out of the county treasury and shall not exceed the rate provided for in chapter 493, relating to legal publications, notices and advertisements, and the cost of printing at the rate paid by the county shall be taxed as part of the costs of the sale of any land or lot contained in the list.

6. The county collector shall cause the affidavit of the printer, editor or publisher of the newspaper in which the list of delinquent lands and notice of sale was published, as provided by

section 493.060, with the list and notice attached, to be recorded in the office of the recorder of deeds of the county, and the recorder shall not charge or receive any fees for recording the same.

7. The county collector may have a separate list of such lands, without legal descriptions or the names of the record owners, printed in a newspaper of general circulation published in such county for three consecutive weeks before the sale of such lands for a parcel or lot of land that:

(1) Has an assessed value of one thousand **five hundred** dollars or less and has been advertised previously; or

(2) Is a lot in a development of twenty or more lots and such lot has an assessed value of one thousand **five hundred** dollars or less. The notice shall state that legal descriptions and the names of the record owners of such lands shall be posted at any county courthouse within the county and the office of the county collector.

8. If, in the opinion of the county collector, an adequate legal description of the delinquent land and lots cannot be obtained through researching the documents available through the recorder of deeds, the collector may commission a professional land surveyor to prepare an adequate legal description of the delinquent land and lots in question. The costs of any commissioned land survey deemed necessary by the county collector shall be taxed as part of the costs of the sale of any land or lots contained in the list prepared under this section.

140.195. ENTRY ON PROPERTY NOT TRESPASS, WHEN. — Any collector, agent of any collector, tax sale purchaser, or agent of any tax sale purchaser performing duties under this chapter shall have the lawful right to enter upon the land of another without being guilty of trespass, if he or she is in the course of providing or attempting to provide notice of a tax sale or tax sale redemption rights and it is necessary to enter upon such land to provide, serve, or post such notice.

140.310. POSSESSION BY PURCHASER, WHEN — RENTS — RIGHTS OF OCCUPANT AND PURCHASER. — 1. The purchaser of any tract or lot of land at sale for delinquent taxes, homesteads excepted, shall at any time after one year from the date of sale be entitled to the immediate possession of the premises so purchased during the redemption period provided for in this law, unless sooner redeemed; provided, however, any owner or occupant of any tract or lot of land purchased may retain possession of said premises by making a written assignment of, or agreement to pay, rent certain or estimated to accrue during such redemption period or so much thereof as shall be sufficient to discharge the bid of the purchaser with interest thereon as provided in the certificate of purchase.

2. The purchaser, his **or her** heirs or assigns may enforce his **or her** rights under said written assignment or agreement in any manner now authorized or hereafter authorized by law for the collection of delinquent and unpaid rent; provided further, nothing herein contained shall operate to the prejudice of any owner not in default and whose interest in the tract or lot of land is not encumbered by the certificate of purchase, nor shall it prejudice the rights of any occupant of any tract or lot of land not liable to pay taxes thereon nor such occupant's interest in any planted, growing or unharvested crop thereon.

3. Any additions or improvements made to any tract or lot of land by any occupant thereof, as tenant or otherwise, and made prior to such tax sale, which such occupant would be permitted to detach and remove from the land under his **or her** contract of occupancy shall also, to the same extent, be removable against the purchaser, his **or her** heirs or assigns.

4. Any rent collected by the purchaser, his **or her** heirs or assigns shall operate as a payment upon the amount due the holder of such certificate of purchase, and such amount or amounts, together with the date paid and by whom shall be endorsed as a credit upon said certificate, and which said sums shall be taken into consideration in the redemption of such land, as provided for in this chapter.

5. Any purchaser, heirs or assigns in possession within the period of redemption against whom rights of redemption are exercised shall be protected in the value of any planted, growing and/or unharvested crop on the lands redeemed in the same manner as such purchaser, heirs or assigns would be protected in valuable and lasting improvements made upon said lands after the period of redemption and referred to in section 140.360.

[6. The one-year redemption period shall not apply to third-year tax sales, but the ninety-day redemption period as provided in section 140.405 shall apply to such sales. There shall be no redemption period for a post-third-year tax sale, or any offering thereafter.]

140.340. REDEMPTION, WHEN — MANNER. — 1. Upon paying the reasonable and customary costs of sale to the county collector for the use of the purchaser, his or her heirs, successors, or assigns; the owner; lienholder; or occupant of any land or lot sold for taxes, or any other persons having an interest therein, [may] shall have the absolute right to redeem the same at any time during the one year next ensuing[, in the following manner] and shall continue to have a defeasible right to redeem the same until such time as the tax sale purchaser acquires the deed, at which time the right to redeem shall expire, provided upon the expiration of the lien evidenced by a certificate of purchase under section 140.410 no redemption shall be required.

2. The reasonable and customary costs of sale include all costs incurred in selling and foreclosing tax liens under this chapter, and such reasonable and customary costs shall include the following: [by paying to the county collector, for the use of the purchaser, his heirs or assigns,] the full sum of the purchase money named in [his] the certificate of purchase and all the [cost] costs of the sale, including the cost to record the certificate of purchase as required in section 140.290, the fee necessary for the collector to record the release of such certificate of purchase, and the **reasonable and customary** cost of the title search and [mailings] **postage costs** of notification required in sections 140.150 to 140.405, together with interest at the rate specified in such certificate, not to exceed ten percent annually, except on a sum paid by a purchaser in excess of the delinquent taxes due plus costs of the sale **incurred by the collector**, no interest shall be owing on the excess amount, with all subsequent taxes which have been paid thereon by the purchaser, his **or her** heirs or assigns with interest at the rate of eight percent per annum on such taxes subsequently paid, and in addition thereto the person redeeming any land shall pay the costs incident to entry of recital of such redemption; **provided, however, that no costs incurred by tax sale purchasers in providing notice of tax sale redemption rights required by law shall be reimbursable as a reasonable and customary cost of sale unless such costs are incurred after March first following the date of purchase of the tax sale certificate by said tax sale purchaser at a first or second offering delinquent tax sale.**

[2.] **3.** Upon deposit with the county collector of the amount necessary to redeem as herein provided, it shall be the duty of the county collector to mail to the purchaser, his **or her** heirs or assigns, at the last post office address if known, and if not known, then to the address of the purchaser as shown in the record of the certificate of purchase, notice of such deposit for redemption.

[3.] **4.** Such notice, given as herein provided, shall stop payment to the purchaser, his **or her** heirs or assigns of any further interest or penalty.

[4. In case the party purchasing said land, his heirs or assigns fails to take a tax deed for the land so purchased within six months after the expiration of the one year next following the date of sale, no interest shall be charged or collected from the redemptioner after that time.]

5. The reasonable and customary costs of sale needed to redeem any land or lot sold for taxes under this section shall be determined by the collector.

140.350. REDEMPTION BY MINORS AND INCAPACITATED OR DISABLED PERSONS, WHEN. — [Infants] **Minors** and incapacitated and disabled persons as defined in chapter 475 may redeem any lands belonging to them sold for taxes, within [one year after the expiration of such

disability] **five years of the date of the last payment of taxes encumbering the real estate by the minor, incapacitated or disabled person, the party's predecessors in interest, or any representative of such person,** in the same manner as provided in section 140.340 for redemption by other persons.

140.405. PURCHASER OF PROPERTY AT DELINQUENT LAND TAX AUCTION, DEED ISSUED TO, WHEN — NOTICE OF RIGHT OF REDEMPTION — REDEMPTION OF PROPERTY FIRST, WHEN — LOSS OF INTEREST, WHEN — NOTICE, AUTHORIZED MANNER. — 1. Any person purchasing property at a delinquent land tax auction shall not acquire the deed to the real estate, as provided for in section 140.250 or 140.420, until the person meets the requirements of this section, except that such requirements shall not apply to post-third-year sales, which shall be conducted under subsection 4 of section 140.250. The purchaser shall obtain a title search report from a licensed attorney or licensed title company detailing the ownership and encumbrances on the property. [Such title search report shall be declared invalid if the effective date is more than one hundred twenty days from the date the purchaser applies for a collector's deed under section 140.250 or 140.420.]

2. At least ninety days prior to the date when a purchaser is authorized to acquire the deed, the purchaser shall notify the owner of record and any person who holds a publicly recorded unreleased deed of trust, mortgage, lease, lien, judgment, or any other publicly recorded claim upon that real estate of such person's right to redeem the property. Notice shall be sent by both first class mail and certified mail return receipt requested to such person's last known available address. If the certified mail return receipt is returned signed, the first class mail notice is not returned, the first class mail notice is refused where noted by the United States Postal Service, or any combination thereof, notice shall be presumed received by the recipient. At the conclusion of the applicable redemption period, the purchaser shall make an affidavit in accordance with subsection [4] 5 of this section.

3. If the owner of record or the holder of any other publicly recorded claim on the property intends to transfer ownership or execute any additional liens or encumbrances on the property, such owner shall first redeem such property under section 140.340. The failure to comply with redeeming the property first before executing any of such actions or agreements on the property shall require the owner of record or any other publicly recorded claim on the property to reimburse the purchaser for the total bid as recorded on the certificate of purchase and all the costs of the sale required in sections 140.150 to 140.405.

4. In the case that both the certified notice return receipt card is returned unsigned and the first class mail is returned for any reason except refusal, where the notice is returned undeliverable, then the purchaser shall attempt additional notice and certify in the purchaser's affidavit to the collector that such additional notice was attempted and by what means.

5. The purchaser shall notify the county collector by affidavit of the date that every required notice was sent to the owner of record and, if applicable, any other publicly recorded claim on the property. To the affidavit, the purchaser shall attach a copy of a valid title search report as described in subsection 1 of this section as well as completed copies of the following for each recipient:

- (1) Notices of right to redeem sent by first class mail;
- (2) Notices of right to redeem sent by certified mail;
- (3) Addressed envelopes for all notices, as they appeared immediately before mailing;
- (4) Certified mail receipt as it appeared upon its return; and
- (5) Any returned regular mailed envelopes. As provided in this section, at such time the purchaser notifies the collector by affidavit that all the ninety days' notice requirements of this section have been met, the purchaser is authorized to acquire the deed, provided that a collector's deed shall not be acquired before the expiration date of the redemption period as provided in section 140.340.

6. If any real estate is purchased at a third-offering tax auction and has a publicly recorded unreleased deed of trust, mortgage, lease, lien, judgment, or any other publicly recorded claim upon the real estate under this section, the purchaser of said property shall within forty-five days after the purchase at the sale notify such person of the person's right to redeem the property within ninety days from the postmark date on the notice. Notice shall be sent by both first class mail and certified mail return receipt requested to such person's last known available address. The purchaser shall notify the county collector by affidavit of the date the required notice was sent to the owner of record and, if applicable, the holder of any other publicly recorded claim on the property, that such person shall have ninety days to redeem said property or be forever barred from redeeming said property.

7. If the county collector chooses to have the title search done then the county collector may charge the purchaser the cost of the title search before giving the purchaser a deed pursuant to section 140.420.

8. [If the property is redeemed, the person redeeming the property shall pay the costs incurred by the purchaser in providing notice under this section. Recoverable costs on any property sold at a tax sale shall include the title search, postage, and costs for the recording of any certificate of purchase issued and for recording the release of such certificate of purchase and all the costs of the sale required in sections 140.150 to 140.405.

9.] Failure of the purchaser to comply with this section shall result in such purchaser's loss of all interest in the real estate **except as otherwise provided in sections 140.550 and 140.570.**

9. The phrase "authorized to acquire the deed" as used in this chapter shall mean the date chosen by the tax sale purchaser that is more than the minimum redemption period set forth in section 140.340 if the tax sale purchaser has complied with the following requirements entitling the purchaser to the issuance of a collector's deed:

(1) Compliance with the requirements of this section to the satisfaction of the collector;

(2) Payment of the recording fee for the collector's deed as required under section 140.410;

(3) Production of the original of the certificate of purchase as required under section 140.420, or production of an original affidavit of lost or destroyed certificate approved by the collector as to form and substance; and

(4) Payment of all subsequent taxes required to be paid under section 140.440.

10. Notwithstanding any provision of law to the contrary, any person except a minor or an incapacitated or disabled person may receive notice under this section in a foreign country or outside the United States:

(1) By any internationally agreed upon means of service that is reasonably calculated to give notice, such as the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents;

(2) If there is no internationally agreed upon means of service, or if an international agreement allows service but does not specify the means, by a method that is reasonably calculated to give notice;

(3) As set forth for the foreign country's acceptable method of service in actions in courts of general jurisdiction;

(4) As the foreign country directs in response to a letter of request;

(5) Unless prohibited by a foreign country's law, by delivering a copy of the notice to the person personally or using a form of mail that requires a signed receipt; or

(6) By any other means not prohibited by international agreement as approved by the collector.

140.410. EXECUTION AND RECORD OF DEED BY PURCHASER — FAILURE — ASSIGNMENT PROHIBITED, WHEN — RECORDING FEE REQUIRED, WHEN. — In all cases where lands have been or may hereafter be sold for delinquent taxes, penalty, interest and costs due

thereon, and a certificate of purchase has been or may hereafter be issued, it is hereby made the duty of such purchaser, his **or her** heirs or assigns, to cause all subsequent taxes to be paid on the property purchased prior to the issuance of any collector's deed, and the purchaser shall further cause a deed to be executed and placed on record in the proper county all within [two years] **eighteen months** from the date of said sale; provided, that on failure of said purchaser, his **or her** heirs or assigns so to do, then and in that case the amount due such purchaser shall cease to be a lien on said lands so purchased as herein provided. Upon the purchaser's forfeiture of all rights of the property acquired by the certificate of purchase issued, and including the nonpayment of all subsequent years' taxes as described in this section, it shall be the responsibility of the collector to record the cancellation of the certificate of purchase in the office of the recorder of deeds of the county. Certificates of purchase cannot be assigned to nonresidents or delinquent taxpayers. However, any person purchasing property at a delinquent land tax sale who meets the requirements of this section, prior to receiving a collector's deed, shall pay to the collector the fee necessary for the recording of such collector's deed to be issued. It shall be the responsibility of the collector to record the deed before delivering such deed to the purchaser of the property.

140.420. DEED TO PURCHASER IF UNREDEEMED. — If no person shall redeem the lands sold for taxes [within the applicable redemption period of one year from the date of the sale or within the ninety-day notice as specified in section 140.405 for a third-year tax sale] **prior to the expiration of the right to redeem**, at the expiration thereof, and on production of the certificate of purchase **and upon proof satisfactory to the collector that a purchaser or his or her heirs, successors, or assigns are authorized to acquire the deed**, the collector of the county in which the sale of such lands took place shall execute to the purchaser, his **or her** heirs or assigns, in the name of the state, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple, subject, however, to all claims thereon for unpaid taxes except such unpaid taxes existing at time of the purchase of said lands and the lien for which taxes was inferior to the lien for taxes for which said tract or lot of land was sold.

231.444. COUNTY ROAD TAX — COUNTIES OF THE THIRD AND FOURTH CLASSIFICATION — SPECIAL ROAD ROCK FUND. — 1. In addition to other levies authorized by law, the governing body of any county of the third **or fourth** classification [without a township form of government having a population of less than six thousand inhabitants according to the most recent decennial census] may by ordinance levy and impose a tax pursuant to this section which shall not exceed the rate of one dollar on each acre of real property in the county which is classified as agricultural and horticultural property pursuant to section 137.016.

2. The proceeds of the tax authorized pursuant to this section shall be collected by the county collector and remitted to the county treasurer who shall deposit such proceeds in a special fund to be known as the "Special Road Rock Fund". All moneys in the special road rock fund shall be appropriated by the county governing body for the sole purpose of purchasing road rock to be placed on county roads within the boundaries of the county.

3. The ordinance levying and imposing a tax pursuant to subsection 1 of this section shall not be effective unless the county governing body submits to the qualified voters of the county a proposal to authorize the county governing body to levy and impose the tax at an election permitted pursuant to section 115.123. The ballot of submission proposing the tax shall be in substantially the following form:

Shall the county of (county's name) be authorized to levy and impose a tax on all real property in the county which is classified as agricultural or horticultural property at a rate not to exceed (rate of tax) cents per acre with all the proceeds of the tax to be placed in the "Special Road Rock Fund" and used solely for the purpose of purchasing road rock to be placed on county roads within the boundaries of the county?

☐ YES

☐ NO

4. If a majority of the qualified voters of the county voting on the proposal vote "YES", then the governing body of the county may by ordinance levy and impose the tax authorized by this section in an amount not to exceed the rate proposed in the ballot of submission. If a majority of the qualified voters of the county voting on the proposal vote "NO", then the governing body of the county shall not levy and impose such tax. Nothing in this section shall prohibit a rejected proposal from being resubmitted to the qualified voters of the county at an election permitted pursuant to section 115.123.

Approved July 6, 2015

HB 616 [SS HB 616]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding the assessment of property taxes

AN ACT to amend chapter 137, RSMo, by adding thereto two new sections relating to assessment of property taxes.

SECTION

- A. Enacting clause.
- 137.018. Certain merchandise exempt from ad valorem taxes.
- 137.081. New political subdivisions, assessment, effective when.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 137, RSMo, is amended by adding thereto two new sections, to be known as sections 137.018 and 137.081, to read as follows:

137.018. CERTAIN MERCHANDISE EXEMPT FROM AD VALOREM TAXES. — **1.** As used in this section, the term "merchandise" shall include short term rentals of equipment and other merchandise offered for short term rentals by rental companies under 532412 or 532210 of the 2012 edition of the North American Industry Classification System as prepared by the Executive Office of the President, Office of Management and Budget, which will subsequently or ultimately sell such merchandise or equipment. As used in this section, the term "short term rental" shall mean rentals for a period of less than three hundred sixty-five consecutive days, for an undefined period, or under an open-ended contract.

2. For the purposes of article X, section 6 of the Constitution of Missouri, all merchandise held or owned by a merchant whether or not currently subject to a short term rental and which will subsequently or ultimately be sold shall be considered inventory and exempt from ad valorem taxes.

137.081. NEW POLITICAL SUBDIVISIONS, ASSESSMENT, EFFECTIVE WHEN. — For purposes of assessment under this chapter, any new political subdivision that is created by approval of the voters before July first of any assessment year shall be considered effective for assessment purposes upon certification of such vote. If the new political subdivision is created by approval of the voters on or after July first of the current assessment year, the new political subdivision shall be considered effective for assessment purposes in the following assessment year.

Approved July 6, 2015

HB 650 [HB 650]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows auxiliary lighting on motorcycles, with certain restrictions

AN ACT to repeal section 307.128, RSMo, and to enact in lieu thereof one new section relating to auxiliary lighting on motorcycles.

SECTION

A. Enacting clause.

307.128. Motorcycle headlamp modulation permitted, when — labeling requirements — auxiliary lighting.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 307.128, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 307.128, to read as follows:

307.128. MOTORCYCLE HEADLAMP MODULATION PERMITTED, WHEN — LABELING REQUIREMENTS — AUXILIARY LIGHTING. — 1. A headlamp on a motorcycle may be wired to modulate either the upper beam or the lower beam from its maximum intensity to a lesser intensity provided that:

- (1) The rate of modulation shall be two hundred forty plus or minus forty cycles per minute;
- (2) The headlamp shall be operated at a maximum power for fifty to seventy percent of each cycle;
- (3) The lowest intensity at any test point shall not be less than seventeen percent of the maximum intensity measured at the same point;
- (4) The modulator switch shall be wired in the power lead of the beam filament being modulated and not in the ground side of the circuit;
- (5) Means shall be provided so that both the lower beam and the upper beam remain operable in the event of a modulation failure;
- (6) The system shall include a sensor mounted with the axis of its sensing element perpendicular to a horizontal plane. Headlamp modulation shall cease whenever the level of light emitted by a tungsten filament operating at three thousand degrees kelvin is either less than two hundred seventy lux of direct light for upward pointing sensors or less than sixty lux of reflected light for downward pointing sensors. The light is measured by a silicon cell type light meter that is located at the sensor and pointing in the same direction as the sensor. A photo gray card is placed at ground level to simulate the road surface in testing downward pointing sensors;
- (7) Means shall be provided so that both the lower and upper beam function at design voltage when the headlamp control switch is in either the lower or upper beam position when the modulator is off.

2. Each motorcycle headlamp modulator not intended as original equipment, or its container, shall be labeled with the maximum wattage, and the minimum wattage appropriate for its use. Additionally, each such modulator shall comply with the provisions of subdivisions (1) to (7) of subsection 1 of this section when connected to a headlamp of the maximum-rated power and headlamp of the minimum-rated power, and shall provide means so that the modulated beam functions at design voltage when the modulator is off. Instructions, with a diagram, shall be provided for mounting the light sensor including location on the motorcycle, distance above the road surface, and orientation with respect to the light.

3. **Notwithstanding any other provision of law, subject to the requirements of subsection 4 of this section, a motorcycle may be equipped with, and an operator of a motorcycle may use, the following auxiliary lighting:**

- (1) **Amber and white illumination;**
- (2) **Standard bulb running lights; or**
- (3) **Light-emitting diode pods and strips.**
- 4. **Lighting under subsection 3 of this section shall be:**
 - (1) **Nonblinking;**
 - (2) **Nonflashing;**
 - (3) **Nonoscillating; and**
 - (4) **Directed toward the engine and the drive train of the motorcycle to prevent interference with the driver's operation of the vehicle.**

Approved June 12, 2015

HB 686 [SCS HB 686]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to junking certificates for motor vehicles

AN ACT to repeal sections 301.010, 301.196, 301.227, and 301.280, RSMo, and to enact in lieu thereof four new sections relating to the registration of motor vehicles, with an existing penalty provision.

SECTION

- A. Enacting clause.
- 301.010. Definitions.
- 301.196. Transferors of interest in motor vehicles or trailers, notice to revenue, when, form — exceptions.
- 301.227. Salvage certificate of title mandatory or optional, when — issuance, fee — junking certificate issued or rescinded, when — inoperable vehicle for ten years, scrap metal operator may purchase without title.
- 301.280. Dealers and garage keepers, sales report required — unclaimed vehicle report required, contents — alteration of vehicle identification number, effect — false statement, penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 301.010, 301.196, 301.227, and 301.280, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 301.010, 301.196, 301.227, and 301.280, to read as follows:

301.010. DEFINITIONS. — As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, and sections 307.010 to 307.175, the following terms mean:

- (1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand five hundred pounds or less, traveling on three, four or more nonhighway tires;
- (2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;
- (3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;
- (4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;
- (5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) "Director" or "director of revenue", the director of the department of revenue;

(11) "Driveaway operation":

(a) The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(b) The movement of any vehicle or vehicles, not owned by the transporter, constituting the commodity being transported, by a person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or

(c) The movement of a motor vehicle by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which:

(a) Is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap [, and shall not be titled or registered]; or

(b) Has been designated as junk or a substantially equivalent designation by this state or any other state;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of fifty miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation. Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a one hundred-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle shall not exceed the weight limits of section 304.180, does not have more than four axles, and does not pull a trailer which has more than two axles. Harvesting equipment which is used specifically for cutting, felling, trimming, delimbing, debarking, chipping, skidding, loading, unloading, and stacking may be transported on a local log truck. A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) "Local log truck tractor", a commercial motor vehicle which is registered under this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a one hundred-mile radius from such site, operates with a weight not exceeding twenty-two thousand four hundred pounds on one axle or with a weight not exceeding forty-four thousand eight hundred pounds on any tandem axle, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle does not exceed the weight limits contained in section 304.180, and does not have more than three axles and does not pull a trailer which has more than two axles. Violations of axle weight limitations shall be subject to the load limit penalty as described for in sections 304.180 to 304.220;

(28) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(29) "Log truck", a vehicle which is not a local log truck or local log truck tractor and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(30) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(31) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(32) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(33) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(34) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

(35) "Motorcycle", a motor vehicle operated on two wheels;

(36) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

(37) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

(38) "Municipality", any city, town or village, whether incorporated or not;

(39) "Nonresident", a resident of a state or country other than the state of Missouri;

(40) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(41) "Operator", any person who operates or drives a motor vehicle;

(42) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

(43) "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

(44) "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

(45) "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

(46) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

(47) "Recreational off-highway vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is more than fifty inches but no more than sixty-seven inches in width, with an unladen dry weight of two thousand pounds or less, traveling on four or more nonhighway tires and which may have access to ATV trails;

(48) "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

(49) "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a "double saddlemount combination". When three vehicles are towed in this manner, the combination is called a "triple saddlemount combination";

(50) "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

(51) "Salvage vehicle", a motor vehicle, semitrailer, or house trailer which:

(a) Was damaged during a year that is no more than six years after the manufacturer's model year designation for such vehicle to the extent that the total cost of repairs to rebuild or reconstruct the vehicle to its condition immediately before it was damaged for legal operation on the roads or highways exceeds eighty percent of the fair market value of the vehicle immediately preceding the time it was damaged;

(b) By reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it;

(c) Has been declared salvage by an insurance company as a result of settlement of a claim;

(d) Ownership of which is evidenced by a salvage title; or

(e) Is abandoned property which is titled pursuant to section 304.155 or section 304.157 and designated with the words "salvage/abandoned property". The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems, or damage as a result of hail, or any sales tax on parts or materials to rebuild or reconstruct the vehicle. For purposes of this definition, "fair market value" means the retail value of a motor vehicle as:

a. Set forth in a current edition of any nationally recognized compilation of retail values, including automated databases, or from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles;

b. Determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; and

c. Determined by an insurance company using any other procedure recognized by the insurance industry, including market surveys, that is applied by the company in a uniform manner;

(52) "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

(53) "Scrap processor", a business that, through the use of fixed or mobile equipment, flattens, crushes, or otherwise accepts motor vehicles and vehicle parts for processing or transportation to a shredder or scrap metal operator for recycling;

(54) "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

(55) "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

(56) "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term specially constructed motor vehicle includes kit vehicles;

(57) "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

(58) "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

(59) "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

(60) "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010;

(61) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

(62) "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional A-dolly connected truck-tractor semitrailer-trailer combination;

(63) "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

(64) "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

(65) "Utility vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is more than fifty inches but no more than sixty-seven inches in width, with an unladen dry weight of two thousand pounds or less, traveling on four or six wheels, to be used primarily for landscaping, lawn care, or maintenance purposes;

(66) "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term bus or commercial motor vehicle as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a chauffeur as that term is defined by section 303.020; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

(67) "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

(68) "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

(69) "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

301.196. TRANSFERORS OF INTEREST IN MOTOR VEHICLES OR TRAILERS, NOTICE TO REVENUE, WHEN, FORM — EXCEPTIONS. — 1. Beginning January 1, 2006, except as otherwise provided in this section, the transferor of an interest in a motor vehicle or trailer listed on the face of a Missouri title, excluding salvage titles and junking certificates, shall notify the department of revenue of the transfer within thirty days of the date of transfer. The notice shall be in a form determined by the department by rule and shall contain:

- (1) **The name of the transferor;**
- (2) A description of the motor vehicle or trailer sufficient to identify it;
- [2)] (3) The vehicle identification number of the motor vehicle or trailer;
- [3)] (4) The name and address of the transferee;
- [4)] (5) The date of birth of the transferee, unless the transferee is not a natural person;
- [5)] (6) The date of the transfer or sale;
- [6)] (7) The purchase price of the motor vehicle or trailer, if applicable;
- [7)] (8) The number of the transferee's drivers license, unless the transferee does not have a drivers license;

[8) The printed name and signature]

(9) **The transferor's electronic signature if transmitted electronically or the signatures of the transferee and transferor if not submitted electronically. For the purposes of this section, "transmitted electronically" shall have the same meaning as an electronic signature as defined in section 432.205;**

[9)] (10) Any other information required by the department by rule.

2. **A notice of sale substantially complying with the requirements of this section is effective even though it contains minor errors which are not materially misleading.**

3. For purposes of giving notice under this section, if the transfer occurs by operation of law, the personal representative, receiver, trustee, sheriff, or other representative or successor in interest of the person whose interest is transferred shall be considered the transferor. Repossession by a creditor shall not be considered a transfer of ownership requiring such notice.

[3.] 4. The requirements of this section shall not apply to transfers when there is no complete change of ownership interest or upon award of ownership of a motor vehicle or trailer made by court order, or transfers of ownership of a motor vehicle or trailer to or between vehicle dealers, or transfers of ownership of a motor vehicle or trailer to an insurance company due to a theft or casualty loss, or transfers of beneficial ownership of a motor vehicle owned by a trust.

[4.] 5. Notification under this section is only required for transfers of ownership that would otherwise require registration and an application for certificate of title in this state under section 301.190, and is for informational purposes only and does not constitute an assignment or release of any interest in the vehicle.

[5.] 6. Retail sales made by licensed dealers including sales of new vehicles shall be reported pursuant to the provisions of section 301.280.

301.227. SALVAGE CERTIFICATE OF TITLE MANDATORY OR OPTIONAL, WHEN — ISSUANCE, FEE — JUNKING CERTIFICATE ISSUED OR RESCINDED, WHEN — INOPERABLE VEHICLE FOR TEN YEARS, SCRAP METAL OPERATOR MAY PURCHASE WITHOUT TITLE. — 1. Whenever a vehicle is sold for salvage, dismantling or rebuilding, the purchaser shall forward to the director of revenue within ten days the certificate of ownership or salvage certificate of title and the proper application and fee of eight dollars and fifty cents, and the director shall issue a negotiable salvage certificate of title to the purchaser of the salvaged vehicle. On vehicles purchased during a year that is no more than six years after the manufacturer's model year

designation for such vehicle, it shall be mandatory that the purchaser apply for a salvage title. On vehicles purchased during a year that is more than six years after the manufacturer's model year designation for such vehicle, then application for a salvage title shall be optional on the part of the purchaser. Whenever a vehicle is sold for destruction and a salvage certificate of title, junking certificate, or certificate of ownership exists, the seller, if licensed under sections 301.217 to 301.221, shall forward the certificate to the director of revenue within ten days, with the notation of the date sold for destruction and the name of the purchaser clearly shown on the face of the certificate.

2. Whenever a vehicle is classified as "junk", as defined in section 301.010, the purchaser may forward to the director of revenue **a properly completed application for a junking certificate as well as** the salvage certificate of title or certificate of ownership and the director shall issue a negotiable junking certificate to the purchaser of the vehicle. The director may also issue a junking certificate to a possessor of a vehicle manufactured twenty-six years or more prior to the current model year who has a bill of sale for said vehicle but does not possess a certificate of ownership, provided no claim of theft has been made on the vehicle and the highway patrol has by letter stated the vehicle is not listed as stolen after checking the registration number through its nationwide computer system. Such **junking** certificate may be granted within thirty days of the submission of a request. **A junking certificate shall authorize the holder to possess, transport, or, by assignment, transfer ownership in such parts, scrap, or junk.**

3. [Upon receipt of a properly completed application for a junking certificate, the director of revenue shall issue to the applicant a junking certificate which shall authorize the holder to possess, transport, or, by assignment, transfer ownership in such parts, scrap or junk, and a certificate of title shall not again be issued for such vehicle; except that, the initial purchaser] **For any vehicle issued a junking certificate or such similar document or classification pursuant to the laws of another state, regardless of whether such designation has been subsequently changed by law in any other state, the department shall only issue a junking certificate, and a salvage certificate of title or original certificate of ownership shall not thereafter be issued for such vehicle. Notwithstanding the provisions of this subsection, if the vehicle has not previously been classified as a "junk" vehicle, the applicant making the original junking certification application shall, within ninety days, be allowed to rescind his application for a junking certificate by surrendering the junking certificate and apply for a salvage certificate of title in his name. The seller of a vehicle for which a junking certificate has been applied for or issued shall disclose such fact in writing to any prospective buyers before sale of such vehicle; otherwise the sale shall be voidable at the option of the buyer.**

4. No scrap metal operator shall acquire or purchase a motor vehicle or parts thereof without, at the time of such acquisition, receiving the original certificate of [title] **ownership** or salvage certificate of title or junking certificate from the seller of the vehicle or parts, unless the seller is a licensee under sections 301.219 to 301.221.

5. All titles and certificates required to be received by scrap metal operators from nonlicensees shall be forwarded by the operator to the director of revenue within ten days of the receipt of the vehicle or parts.

6. The scrap metal operator shall keep a record, for three years, of the seller's name and address, the salvage business license number of the licensee, date of purchase, and any vehicle or parts identification numbers open for inspection as provided in section 301.225.

7. Notwithstanding any other provision of this section, a motor vehicle dealer as defined in section 301.550 and licensed under the provisions of sections 301.550 to 301.572 may negotiate one reassignment of a salvage certificate of title on the back thereof.

8. Notwithstanding the provisions of subsection 1 of this section, an insurance company which settles a claim for a stolen vehicle may apply for and shall be issued a negotiable salvage certificate of title without the payment of any fee upon proper application within thirty days after settlement of the claim for such stolen vehicle. However, if the insurance company upon recovery of a stolen vehicle determines that the stolen vehicle has not sustained damage to the

extent that the vehicle would have otherwise been declared a salvage vehicle pursuant to subdivision (51) of section 301.010, then the insurance company may have the vehicle inspected by the Missouri state highway patrol, or other law enforcement agency authorized by the director of revenue, in accordance with the inspection provisions of subsection 9 of section 301.190. Upon receipt of title application, applicable fee, the completed inspection, and the return of any previously issued negotiable salvage certificate, the director shall issue an original title with no salvage or prior salvage designation. Upon the issuance of an original title the director shall remove any indication of the negotiable salvage title previously issued to the insurance company from the department's electronic records.

9. Notwithstanding subsection 4 of this section or any other provision of the law to the contrary, if a motor vehicle is inoperable and is at least ten model years old, or the parts are from a motor vehicle that is inoperable and is at least ten model years old, a scrap metal operator may purchase or acquire such motor vehicle or parts without receiving the original certificate of [title] **ownership**, salvage certificate of title, or junking certificate from the seller of the vehicle or parts, provided the scrap metal operator verifies with the department of revenue, via the department's online record access, that the motor vehicle is not subject to any recorded security interest or lien and the scrap metal operator complies with the requirements of this subsection. In lieu of forwarding certificates of [titles] **title or ownership** for such motor vehicles as required by subsection 5 of this section, the scrap metal operator shall forward a copy of the seller's state identification along with a bill of sale to the department of revenue. The bill of sale form shall be designed by the director and such form shall include, but not be limited to, a certification that the motor vehicle is at least ten model years old, is inoperable, is not subject to any recorded security interest or lien, and a certification by the seller that the seller has the legal authority to sell or otherwise transfer the seller's interest in the motor vehicle or parts. Upon receipt of the information required by this subsection, the department of revenue shall cancel any certificate of title **or ownership** and registration for the motor vehicle. If the motor vehicle is inoperable and at least twenty model years old, then the scrap metal operator shall not be required to verify with the department of revenue whether the motor vehicle is subject to any recorded security interests or liens. As used in this subsection, the term "inoperable" means a motor vehicle that is in a rusted, wrecked, discarded, worn out, extensively damaged, dismantled, and mechanically inoperative condition and the vehicle's highest and best use is for scrap purposes. The director of the department of revenue is directed to promulgate rules and regulations to implement and administer the provisions of this section, including but not limited to, the development of a uniform bill of sale. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be invalid and void.

301.280. DEALERS AND GARAGE KEEPERS, SALES REPORT REQUIRED — UNCLAIMED VEHICLE REPORT REQUIRED, CONTENTS — ALTERATION OF VEHICLE IDENTIFICATION NUMBER, EFFECT — FALSE STATEMENT, PENALTY. — 1. Every motor vehicle dealer and boat dealer shall make a monthly report to the department of revenue, on blanks to be prescribed by the department of revenue, giving the following information: date of the sale of each motor vehicle, boat, trailer and all-terrain vehicle sold; the name and address of the buyer; the name of the manufacturer; year of manufacture; model of vehicle; vehicle identification number; style of vehicle; odometer setting; and it shall also state whether the motor vehicle, boat, trailer or all-terrain vehicle is new or secondhand. Each monthly sales report filed by a motor vehicle dealer who collects sales tax under subsection 8 of section 144.070 shall also include the amount of state and local sales tax collected for each motor vehicle sold if sales tax was due. The

odometer reading is not required when reporting the sale of any motor vehicle that is ten years old or older, any motor vehicle having a gross vehicle weight rating of more than sixteen thousand pounds, new vehicles that are transferred on a manufacturer's statement of origin between one franchised motor vehicle dealer and another, or boats, all-terrain vehicles or trailers. The sale of all [thirty-day] temporary permits[, without exception,] shall be recorded in the appropriate space on the dealer's monthly sales report [by recording the complete permit number issued on the motor vehicle or trailer sale listed], **unless the sale of the temporary permit is already recorded by electronic means as determined by the department.** The monthly sales report shall be completed in full and signed by an officer, partner, or owner of the dealership, and actually received by the department of revenue on or before the fifteenth day of the month succeeding the month for which the sales are being reported. If no sales occur in any given month, a report shall be submitted for that month indicating no sales. Any vehicle dealer who fails to file a monthly report or who fails to file a timely report shall be subject to disciplinary action as prescribed in section 301.562 or a penalty assessed by the director not to exceed three hundred dollars per violation. Every motor vehicle and boat dealer shall retain copies of the monthly sales report as part of the records to be maintained at the dealership location and shall hold them available for inspection by appropriate law enforcement officials and officials of the department of revenue. Every vehicle dealer selling twenty or more vehicles a month shall file the monthly sales report with the department in an electronic format. Any dealer filing a monthly sales report in an electronic format shall be exempt from filing the notice of transfer required by section 301.196. For any dealer not filing electronically, the notice of transfer required by section 301.196 shall be submitted with the monthly sales report as prescribed by the director.

2. Every dealer and every person operating a public garage shall keep a correct record of the vehicle identification number, odometer setting, manufacturer's name of all motor vehicles or trailers accepted by him for the purpose of sale, rental, storage, repair or repainting, together with the name and address of the person delivering such motor vehicle or trailer to the dealer or public garage keeper, and the person delivering such motor vehicle or trailer shall record such information in a file kept by the dealer or garage keeper. The record shall be kept for five years and be open for inspection by law enforcement officials, members or authorized or designated employees of the Missouri highway patrol, and persons, agencies and officials designated by the director of revenue.

3. Every dealer and every person operating a public garage in which a motor vehicle remains unclaimed for a period of fifteen days shall, within five days after the expiration of that period, report the motor vehicle as unclaimed to the director of revenue. Such report shall be on a form prescribed by the director of revenue. A motor vehicle left by its owner whose name and address are known to the dealer or his employee or person operating a public garage or his employee is not considered unclaimed. Any dealer or person operating a public garage who fails to report a motor vehicle as unclaimed as herein required forfeits all claims and liens for its garaging, parking or storing.

4. The director of revenue shall maintain appropriately indexed cumulative records of unclaimed vehicles reported to the director. Such records shall be kept open to public inspection during reasonable business hours.

5. The alteration or obliteration of the vehicle identification number on any such motor vehicle shall be prima facie evidence of larceny, and the dealer or person operating such public garage shall upon the discovery of such obliteration or alteration immediately notify the highway patrol, sheriff, marshal, constable or chief of police of the municipality where the dealer or garage keeper has his place of business, and shall hold such motor vehicle or trailer for a period of forty-eight hours for the purpose of an investigation by the officer so notified.

6. Any person who knowingly makes a false statement or omission of a material fact in a monthly sales report to the department of revenue, as described in subsection 1 of this section, shall be deemed guilty of a class A misdemeanor.

Approved June 24, 2015

HB 709 [SCS HCS HB 709]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding entities regulated by the Department of Insurance, Financial Institutions and Professional Registration

AN ACT to repeal sections 195.070, 334.037, 334.104, and 334.747, RSMo, and to enact in lieu thereof eight new sections relating to entities regulated by the department of insurance, financial institutions and professional registration.

SECTION

- A. Enacting clause.
- 195.070. Prescriptive authority.
- 324.023. Issuance of opinions on qualifications, functions, or duties of licensed professions by regulatory boards or commissions.
- 334.037. Assistant physicians, collaborative practice arrangements, requirements — rulemaking authority — identification badges required, when — prescriptive authority.
- 334.104. Collaborative practice arrangements, form, contents, delegation of authority — rules, approval, restrictions — disciplinary actions — notice of collaborative practice or physician assistant agreements to board, when — certain nurses may provide anesthesia services, when — contract limitations.
- 334.747. Prescribing controlled substances authorized, when — supervising physicians — certification.
- 374.015. Issuance of bulletins by director — definitions — bulleting not to have force and effect of law and are not binding.
- 374.018. Issuance of no-action letters by director — definitions — effect of letters — duty of department — letters not public records.
- 376.791. Portion of section 376.777 not applicable to individual health insurance coverage.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 195.070, 334.037, 334.104, and 334.747, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 195.070, 324.023, 334.037, 334.104, 334.747, 374.015, 374.018, and 376.791, to read as follows:

195.070. PRESCRIPTIVE AUTHORITY. — 1. A physician, podiatrist, dentist, a registered optometrist certified to administer pharmaceutical agents as provided in section 336.220, or an assistant physician in accordance with section 334.037 or a physician assistant in accordance with section 334.747 in good faith and in the course of his or her professional practice only, may prescribe, administer, and dispense controlled substances or he or she may cause the same to be administered or dispensed by an individual as authorized by statute.

2. An advanced practice registered nurse, as defined in section 335.016, but not a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, who holds a certificate of controlled substance prescriptive authority from the board of nursing under section 335.019 and who is delegated the authority to prescribe controlled substances under a collaborative practice arrangement under section 334.104 may prescribe any controlled substances listed in Schedules III, IV, and V of section 195.017, **and may have restricted authority in Schedule II. Prescriptions for Schedule II medications prescribed by an advanced practice registered nurse who has a certificate of controlled substance prescriptive authority are restricted to only those medications containing hydrocodone.** However, no such certified advanced practice registered nurse shall prescribe controlled substance for his or her own self or family. Schedule III narcotic controlled substance **and**

Schedule II - hydrocodone prescriptions shall be limited to a one hundred twenty-hour supply without refill.

3. A veterinarian, in good faith and in the course of the veterinarian's professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled substances and the veterinarian may cause them to be administered by an assistant or orderly under his or her direction and supervision.

4. A practitioner shall not accept any portion of a controlled substance unused by a patient, for any reason, if such practitioner did not originally dispense the drug.

5. An individual practitioner shall not prescribe or dispense a controlled substance for such practitioner's personal use except in a medical emergency.

324.023. ISSUANCE OF OPINIONS ON QUALIFICATIONS, FUNCTIONS, OR DUTIES OF LICENSED PROFESSIONS BY REGULATORY BOARDS OR COMMISSIONS. — 1. Notwithstanding any law to the contrary, any board or commission established under chapters 330, 331, 332, 334, 335, 336, 337, 338, 340, and 345 may, at its discretion, issue oral or written opinions addressing topics relating to the qualifications, functions, or duties of any profession licensed by the specific board or commission issuing such guidance. Any such opinion is for educational purposes only, is in no way binding on the licensees of the respective board or commission, and cannot be used as the basis for any discipline against any licensee under chapters 330, 331, 332, 334, 335, 336, 337, 338, 340, and 345. No board or commission may address topics relating to the qualifications, functions, or duties of any profession licensed by a different board or commission.

2. The recipient of an opinion given under this section shall be informed that the opinion is for educational purposes only, is in no way binding on the licensees of the board, and cannot be used as the basis for any discipline against any licensee under chapters 330, 331, 332, 334, 335, 336, 337, 338, 340, and 345.

334.037. ASSISTANT PHYSICIANS, COLLABORATIVE PRACTICE ARRANGEMENTS, REQUIREMENTS—RULEMAKING AUTHORITY—IDENTIFICATION BADGES REQUIRED, WHEN — PRESCRIPTIVE AUTHORITY. — 1. A physician may enter into collaborative practice arrangements with assistant physicians. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to an assistant physician the authority to administer or dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the assistant physician and is consistent with that assistant physician's skill, training, and competence and the skill and training of the collaborating physician.

2. The written collaborative practice arrangement shall contain at least the following provisions:

(1) Complete names, home and business addresses, zip codes, and telephone numbers of the collaborating physician and the assistant physician;

(2) A list of all other offices or locations besides those listed in subdivision (1) of this subsection where the collaborating physician authorized the assistant physician to prescribe;

(3) A requirement that there shall be posted at every office where the assistant physician is authorized to prescribe, in collaboration with a physician, a prominently displayed disclosure statement informing patients that they may be seen by an assistant physician and have the right to see the collaborating physician;

(4) All specialty or board certifications of the collaborating physician and all certifications of the assistant physician;

(5) The manner of collaboration between the collaborating physician and the assistant physician, including how the collaborating physician and the assistant physician shall:

(a) Engage in collaborative practice consistent with each professional's skill, training, education, and competence;

(b) Maintain geographic proximity; except, the collaborative practice arrangement may allow for geographic proximity to be waived for a maximum of twenty-eight days per calendar year for rural health clinics as defined by P.L. 95-210, as long as the collaborative practice arrangement includes alternative plans as required in paragraph (c) of this subdivision. Such exception to geographic proximity shall apply only to independent rural health clinics, provider-based rural health clinics if the provider is a critical access hospital as provided in 42 U.S.C. Section 1395i-4, and provider-based rural health clinics if the main location of the hospital sponsor is greater than fifty miles from the clinic. The collaborating physician shall maintain documentation related to such requirement and present it to the state board of registration for the healing arts when requested; and

(c) Provide coverage during absence, incapacity, infirmity, or emergency by the collaborating physician;

(6) A description of the assistant physician's controlled substance prescriptive authority in collaboration with the physician, including a list of the controlled substances the physician authorizes the assistant physician to prescribe and documentation that it is consistent with each professional's education, knowledge, skill, and competence;

(7) A list of all other written practice agreements of the collaborating physician and the assistant physician;

(8) The duration of the written practice agreement between the collaborating physician and the assistant physician;

(9) A description of the time and manner of the collaborating physician's review of the assistant physician's delivery of health care services. The description shall include provisions that the assistant physician shall submit a minimum of ten percent of the charts documenting the assistant physician's delivery of health care services to the collaborating physician for review by the collaborating physician, or any other physician designated in the collaborative practice arrangement, every fourteen days; and

(10) The collaborating physician, or any other physician designated in the collaborative practice arrangement, shall review every fourteen days a minimum of twenty percent of the charts in which the assistant physician prescribes controlled substances. The charts reviewed under this subdivision may be counted in the number of charts required to be reviewed under subdivision (9) of this subsection.

3. The state board of registration for the healing arts under section 334.125 shall promulgate rules regulating the use of collaborative practice arrangements for assistant physicians. Such rules shall specify:

(1) Geographic areas to be covered;

(2) The methods of treatment that may be covered by collaborative practice arrangements;

(3) In conjunction with deans of medical schools and primary care residency program directors in the state, the development and implementation of educational methods and programs undertaken during the collaborative practice service which shall facilitate the advancement of the assistant physician's medical knowledge and capabilities, and which may lead to credit toward a future residency program for programs that deem such documented educational achievements acceptable; and

(4) The requirements for review of services provided under collaborative practice arrangements, including delegating authority to prescribe controlled substances.

Any rules relating to dispensing or distribution of medications or devices by prescription or prescription drug orders under this section shall be subject to the approval of the state board of pharmacy. Any rules relating to dispensing or distribution of controlled substances by prescription or prescription drug orders under this section shall be subject to the approval of the department of health and senior services and the state board of pharmacy. The state board of

registration for the healing arts shall promulgate rules applicable to assistant physicians that shall be consistent with guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall not extend to collaborative practice arrangements of hospital employees providing inpatient care within hospitals as defined in chapter 197 or population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

4. The state board of registration for the healing arts shall not deny, revoke, suspend, or otherwise take disciplinary action against a collaborating physician for health care services delegated to an assistant physician provided the provisions of this section and the rules promulgated thereunder are satisfied.

5. Within thirty days of any change and on each renewal, the state board of registration for the healing arts shall require every physician to identify whether the physician is engaged in any collaborative practice arrangement, including collaborative practice arrangements delegating the authority to prescribe controlled substances, and also report to the board the name of each assistant physician with whom the physician has entered into such arrangement. The board may make such information available to the public. The board shall track the reported information and may routinely conduct random reviews of such arrangements to ensure that arrangements are carried out for compliance under this chapter.

6. A collaborating physician shall not enter into a collaborative practice arrangement with more than three full-time equivalent assistant physicians. Such limitation shall not apply to collaborative arrangements of hospital employees providing inpatient care service in hospitals as defined in chapter 197 or population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

7. The collaborating physician shall determine and document the completion of at least a one-month period of time during which the assistant physician shall practice with the collaborating physician continuously present before practicing in a setting where the collaborating physician is not continuously present. Such limitation shall not apply to collaborative arrangements of providers of population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

8. No agreement made under this section shall supersede current hospital licensing regulations governing hospital medication orders under protocols or standing orders for the purpose of delivering inpatient or emergency care within a hospital as defined in section 197.020 if such protocols or standing orders have been approved by the hospital's medical staff and pharmaceutical therapeutics committee.

9. No contract or other agreement shall require a physician to act as a collaborating physician for an assistant physician against the physician's will. A physician shall have the right to refuse to act as a collaborating physician, without penalty, for a particular assistant physician. No contract or other agreement shall limit the collaborating physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any assistant physician, but such requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by a hospital's medical staff.

10. No contract or other agreement shall require any assistant physician to serve as a collaborating assistant physician for any collaborating physician against the assistant physician's will. An assistant physician shall have the right to refuse to collaborate, without penalty, with a particular physician.

11. All collaborating physicians and assistant physicians in collaborative practice arrangements shall wear identification badges while acting within the scope of their collaborative practice arrangement. The identification badges shall prominently display the licensure status of such collaborating physicians and assistant physicians.

12. (1) An assistant physician with a certificate of controlled substance prescriptive authority as provided in this section may prescribe any controlled substance listed in Schedule III, IV, or V of section 195.017, **and may have restricted authority in Schedule II**, when

delegated the authority to prescribe controlled substances in a collaborative practice arrangement. **Prescriptions for Schedule II medications prescribed by an assistant physician who has a certificate of controlled substance prescriptive authority are restricted to only those medications containing hydrocodone.** Such authority shall be filed with the state board of registration for the healing arts. The collaborating physician shall maintain the right to limit a specific scheduled drug or scheduled drug category that the assistant physician is permitted to prescribe. Any limitations shall be listed in the collaborative practice arrangement. Assistant physicians shall not prescribe controlled substances for themselves or members of their families. Schedule III controlled substances **and Schedule II - hydrocodone prescriptions** shall be limited to a five-day supply without refill. Assistant physicians who are authorized to prescribe controlled substances under this section shall register with the federal Drug Enforcement Administration and the state bureau of narcotics and dangerous drugs, and shall include the Drug Enforcement Administration registration number on prescriptions for controlled substances.

(2) The collaborating physician shall be responsible to determine and document the completion of at least one hundred twenty hours in a four-month period by the assistant physician during which the assistant physician shall practice with the collaborating physician on-site prior to prescribing controlled substances when the collaborating physician is not on-site. Such limitation shall not apply to assistant physicians of population-based public health services as defined in 20 CSR 2150-5.100 as of April 30, 2009.

(3) An assistant physician shall receive a certificate of controlled substance prescriptive authority from the state board of registration for the healing arts upon verification of licensure under section 334.036.

334.104. COLLABORATIVE PRACTICE ARRANGEMENTS, FORM, CONTENTS, DELEGATION OF AUTHORITY — RULES, APPROVAL, RESTRICTIONS — DISCIPLINARY ACTIONS — NOTICE OF COLLABORATIVE PRACTICE OR PHYSICIAN ASSISTANT AGREEMENTS TO BOARD, WHEN — CERTAIN NURSES MAY PROVIDE ANESTHESIA SERVICES, WHEN — CONTRACT LIMITATIONS. — 1. A physician may enter into collaborative practice arrangements with registered professional nurses. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer or dispense drugs and provide treatment as long as the delivery of such health care services is within the scope of practice of the registered professional nurse and is consistent with that nurse's skill, training and competence.

2. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer, dispense or prescribe drugs and provide treatment if the registered professional nurse is an advanced practice registered nurse as defined in subdivision (2) of section 335.016. Collaborative practice arrangements may delegate to an advanced practice registered nurse, as defined in section 335.016, the authority to administer, dispense, or prescribe controlled substances listed in Schedules III, IV, and V of section 195.017, **and Schedule II - hydrocodone**; except that, the collaborative practice arrangement shall not delegate the authority to administer any controlled substances listed in Schedules III, IV, and V of section 195.017, **or Schedule II - hydrocodone** for the purpose of inducing sedation or general anesthesia for therapeutic, diagnostic, or surgical procedures. Schedule III narcotic controlled substance **and Schedule II - hydrocodone** prescriptions shall be limited to a one hundred twenty-hour supply without refill. Such collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols or standing orders for the delivery of health care services.

3. The written collaborative practice arrangement shall contain at least the following provisions:

(1) Complete names, home and business addresses, zip codes, and telephone numbers of the collaborating physician and the advanced practice registered nurse;

(2) A list of all other offices or locations besides those listed in subdivision (1) of this subsection where the collaborating physician authorized the advanced practice registered nurse to prescribe;

(3) A requirement that there shall be posted at every office where the advanced practice registered nurse is authorized to prescribe, in collaboration with a physician, a prominently displayed disclosure statement informing patients that they may be seen by an advanced practice registered nurse and have the right to see the collaborating physician;

(4) All specialty or board certifications of the collaborating physician and all certifications of the advanced practice registered nurse;

(5) The manner of collaboration between the collaborating physician and the advanced practice registered nurse, including how the collaborating physician and the advanced practice registered nurse will:

(a) Engage in collaborative practice consistent with each professional's skill, training, education, and competence;

(b) Maintain geographic proximity, except the collaborative practice arrangement may allow for geographic proximity to be waived for a maximum of twenty-eight days per calendar year for rural health clinics as defined by P.L. 95-210, as long as the collaborative practice arrangement includes alternative plans as required in paragraph (c) of this subdivision. This exception to geographic proximity shall apply only to independent rural health clinics, provider-based rural health clinics where the provider is a critical access hospital as provided in 42 U.S.C. 1395i-4, and provider-based rural health clinics where the main location of the hospital sponsor is greater than fifty miles from the clinic. The collaborating physician is required to maintain documentation related to this requirement and to present it to the state board of registration for the healing arts when requested; and

(c) Provide coverage during absence, incapacity, infirmity, or emergency by the collaborating physician;

(6) A description of the advanced practice registered nurse's controlled substance prescriptive authority in collaboration with the physician, including a list of the controlled substances the physician authorizes the nurse to prescribe and documentation that it is consistent with each professional's education, knowledge, skill, and competence;

(7) A list of all other written practice agreements of the collaborating physician and the advanced practice registered nurse;

(8) The duration of the written practice agreement between the collaborating physician and the advanced practice registered nurse;

(9) A description of the time and manner of the collaborating physician's review of the advanced practice registered nurse's delivery of health care services. The description shall include provisions that the advanced practice registered nurse shall submit a minimum of ten percent of the charts documenting the advanced practice registered nurse's delivery of health care services to the collaborating physician for review by the collaborating physician, or any other physician designated in the collaborative practice arrangement, every fourteen days; and

(10) The collaborating physician, or any other physician designated in the collaborative practice arrangement, shall review every fourteen days a minimum of twenty percent of the charts in which the advanced practice registered nurse prescribes controlled substances. The charts reviewed under this subdivision may be counted in the number of charts required to be reviewed under subdivision (9) of this subsection.

4. The state board of registration for the healing arts pursuant to section 334.125 and the board of nursing pursuant to section 335.036 may jointly promulgate rules regulating the use of collaborative practice arrangements. Such rules shall be limited to specifying geographic areas to be covered, the methods of treatment that may be covered by collaborative practice arrangements and the requirements for review of services provided pursuant to collaborative practice arrangements including delegating authority to prescribe controlled substances. Any rules relating to dispensing or distribution of medications or devices by prescription or

prescription drug orders under this section shall be subject to the approval of the state board of pharmacy. Any rules relating to dispensing or distribution of controlled substances by prescription or prescription drug orders under this section shall be subject to the approval of the department of health and senior services and the state board of pharmacy. In order to take effect, such rules shall be approved by a majority vote of a quorum of each board. Neither the state board of registration for the healing arts nor the board of nursing may separately promulgate rules relating to collaborative practice arrangements. Such jointly promulgated rules shall be consistent with guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall not extend to collaborative practice arrangements of hospital employees providing inpatient care within hospitals as defined pursuant to chapter 197 or population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

5. The state board of registration for the healing arts shall not deny, revoke, suspend or otherwise take disciplinary action against a physician for health care services delegated to a registered professional nurse provided the provisions of this section and the rules promulgated thereunder are satisfied. Upon the written request of a physician subject to a disciplinary action imposed as a result of an agreement between a physician and a registered professional nurse or registered physician assistant, whether written or not, prior to August 28, 1993, all records of such disciplinary licensure action and all records pertaining to the filing, investigation or review of an alleged violation of this chapter incurred as a result of such an agreement shall be removed from the records of the state board of registration for the healing arts and the division of professional registration and shall not be disclosed to any public or private entity seeking such information from the board or the division. The state board of registration for the healing arts shall take action to correct reports of alleged violations and disciplinary actions as described in this section which have been submitted to the National Practitioner Data Bank. In subsequent applications or representations relating to his medical practice, a physician completing forms or documents shall not be required to report any actions of the state board of registration for the healing arts for which the records are subject to removal under this section.

6. Within thirty days of any change and on each renewal, the state board of registration for the healing arts shall require every physician to identify whether the physician is engaged in any collaborative practice agreement, including collaborative practice agreements delegating the authority to prescribe controlled substances, or physician assistant agreement and also report to the board the name of each licensed professional with whom the physician has entered into such agreement. The board may make this information available to the public. The board shall track the reported information and may routinely conduct random reviews of such agreements to ensure that agreements are carried out for compliance under this chapter.

7. Notwithstanding any law to the contrary, a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016 shall be permitted to provide anesthesia services without a collaborative practice arrangement provided that he or she is under the supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately available if needed. Nothing in this subsection shall be construed to prohibit or prevent a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016 from entering into a collaborative practice arrangement under this section, except that the collaborative practice arrangement may not delegate the authority to prescribe any controlled substances listed in Schedules III, IV, and V of section 195.017, **or Schedule II - hydrocodone.**

8. A collaborating physician shall not enter into a collaborative practice arrangement with more than three full-time equivalent advanced practice registered nurses. This limitation shall not apply to collaborative arrangements of hospital employees providing inpatient care service in hospitals as defined in chapter 197 or population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

9. It is the responsibility of the collaborating physician to determine and document the completion of at least a one-month period of time during which the advanced practice registered nurse shall practice with the collaborating physician continuously present before practicing in a

setting where the collaborating physician is not continuously present. This limitation shall not apply to collaborative arrangements of providers of population-based public health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.

10. No agreement made under this section shall supersede current hospital licensing regulations governing hospital medication orders under protocols or standing orders for the purpose of delivering inpatient or emergency care within a hospital as defined in section 197.020 if such protocols or standing orders have been approved by the hospital's medical staff and pharmaceutical therapeutics committee.

11. No contract or other agreement shall require a physician to act as a collaborating physician for an advanced practice registered nurse against the physician's will. A physician shall have the right to refuse to act as a collaborating physician, without penalty, for a particular advanced practice registered nurse. No contract or other agreement shall limit the collaborating physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any advanced practice registered nurse, but this requirement shall not authorize a physician in implementing such protocols, standing orders, or delegation to violate applicable standards for safe medical practice established by hospital's medical staff.

12. No contract or other agreement shall require any advanced practice registered nurse to serve as a collaborating advanced practice registered nurse for any collaborating physician against the advanced practice registered nurse's will. An advanced practice registered nurse shall have the right to refuse to collaborate, without penalty, with a particular physician.

334.747. PRESCRIBING CONTROLLED SUBSTANCES AUTHORIZED, WHEN — SUPERVISING PHYSICIANS — CERTIFICATION. — 1. A physician assistant with a certificate of supervised substance prescriptive authority as provided in this section may prescribe any controlled substance listed in schedule III, IV, or V of section 195.017, **and may have restricted authority in Schedule II**, when delegated the authority to prescribe controlled substances in a supervision agreement. Such authority shall be listed on the supervision verification form on file with the state board of healing arts. The supervising physician shall maintain the right to limit a specific scheduled drug or scheduled drug category that the physician assistant is permitted to prescribe. Any limitations shall be listed on the supervision form. **Prescriptions for Schedule II medications prescribed by a physician assistant with authority to prescribe delegated in a supervision agreement are restricted to only those medications containing hydrocodone.** Physician assistants shall not prescribe controlled substances for themselves or members of their families. Schedule III controlled substances **and Schedule II - hydrocodone prescriptions** shall be limited to a five-day supply without refill. Physician assistants who are authorized to prescribe controlled substances under this section shall register with the federal Drug Enforcement Administration and the state bureau of narcotics and dangerous drugs, and shall include the Drug Enforcement Administration registration number on prescriptions for controlled substances.

2. The supervising physician shall be responsible to determine and document the completion of at least one hundred twenty hours in a four-month period by the physician assistant during which the physician assistant shall practice with the supervising physician on-site prior to prescribing controlled substances when the supervising physician is not on-site. Such limitation shall not apply to physician assistants of population-based public health services as defined in 20 CSR 2150-5.100 as of April 30, 2009.

3. A physician assistant shall receive a certificate of controlled substance prescriptive authority from the board of healing arts upon verification of the completion of the following educational requirements:

(1) Successful completion of an advanced pharmacology course that includes clinical training in the prescription of drugs, medicines, and therapeutic devices. A course or courses with advanced pharmacological content in a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or its predecessor agency shall satisfy such requirement;

(2) Completion of a minimum of three hundred clock hours of clinical training by the supervising physician in the prescription of drugs, medicines, and therapeutic devices;

(3) Completion of a minimum of one year of supervised clinical practice or supervised clinical rotations. One year of clinical rotations in a program accredited by the Accreditation Review Commission on Education for the Physician Assistant (ARC-PA) or its predecessor agency, which includes pharmacotherapeutics as a component of its clinical training, shall satisfy such requirement. Proof of such training shall serve to document experience in the prescribing of drugs, medicines, and therapeutic devices;

(4) A physician assistant previously licensed in a jurisdiction where physician assistants are authorized to prescribe controlled substances may obtain a state bureau of narcotics and dangerous drugs registration if a supervising physician can attest that the physician assistant has met the requirements of subdivisions (1) to (3) of this subsection and provides documentation of existing federal Drug Enforcement Agency registration.

374.015. ISSUANCE OF BULLETINS BY DIRECTOR — DEFINITIONS — BULLETING NOT TO HAVE FORCE AND EFFECT OF LAW AND ARE NOT BINDING. — 1. For purposes of this section, "insurer" shall mean any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance including producers, adjusters and third-party administrators, health services corporations, health maintenance organizations, health carriers, prepaid limited health care service plans, dental, optometric, and other similar health service plans. "Insurer" shall also include all companies organized, incorporated, or doing business under the provisions of chapters 325, 354, and 374 to 385.

2. For purposes of this section, "bulletin" shall mean an informal written communication to inform or educate the insurance industry and the general public about a regulatory topic or issue. A bulletin is informational in nature and is not an evaluation of specific facts and circumstances.

3. Notwithstanding any law to the contrary, the director may at his or her discretion issue bulletins addressing the business of insurance in this state.

4. Bulletins do not have the force or effect of law and shall not be considered statements of general applicability that would require promulgation by rule.

5. Such bulletins shall not be binding on the department or an insurer. The director may revise or withdraw any previously issued bulletin; however such revision or withdrawal shall be prospective in nature. The effective date for such bulletin which was withdrawn or revised shall be ninety days after the date the revision or withdrawal notice is published and, where applicable, shall apply to new policies issued and policies that renew on or after that date.

374.018. ISSUANCE OF NO-ACTION LETTERS BY DIRECTOR — DEFINITIONS — EFFECT OF LETTERS — DUTY OF DEPARTMENT — LETTERS NOT PUBLIC RECORDS. — 1. For purposes of this section, "no-action letter" shall mean a letter that states the intention of the department to not take enforcement actions under section 374.046 with respect to the requesting insurer, based on the specific facts then presented and applicable law, as of the date a no-action letter is issued.

2. For purposes of this section, "insurer" shall mean all insurance companies organized, incorporated, or doing business under the provisions of chapters 354, 376, 379, or 380.

3. Notwithstanding any law to the contrary, the director may at his or her discretion issue no-action letters addressing the business of insurance in this state.

4. No-action letters shall not be considered statements of general applicability that would require promulgation by rule.

5. Insurers who seek guidance may submit a written request for a no-action letter to the department.

6. An insurer is under an affirmative obligation to make full, true, and accurate disclosure of all information related to the activities for which the no-action letter is requested. Each request shall be accompanied by all relevant supplementary information including, but not limited to, background information regarding the request, policies, procedures, and applicable marketing materials. Each request shall also include complete copies of documents, and shall identify all provisions of law applicable to the request.

7. The insurer requesting the no-action letter shall provide the department with any additional information or documents the department requests for its review of the matter.

8. The insurer may withdraw the request for a no-action letter prior to the issuance of the no-action letter.

9. The department shall act on the no-action letter request within ninety days after it receives all information necessary to complete its review.

10. At the completion of its review of a request for a no-action letter the department shall do one of the following:

- (1) Issue a no-action letter;
- (2) Decline to issue a no-action letter; or
- (3) Take such other action as the department considers appropriate.

11. A no-action letter shall be effective as of the date it is issued.

12. As long as there is no change in any material fact or law or the discovery of a material misrepresentation or omission made by the insurer, the department is estopped from bringing any enforcement action under section 374.046 against the requesting insurer concerning the specific conduct that is the subject of the no-action letter issued by the department. However, this estoppel shall not apply to those enforcement actions related to the financial condition of the insurer. The determination of materiality shall be in the sole discretion of the director.

13. A no-action letter request shall not be a public record as defined in chapter 610 until the date of issuance by the department of a response to the no-action letter request. The request for a no-action letter and the department's response shall, after the date of issuance by the department, be considered a public record as defined in chapter 610. Upon request of the insurer, information submitted with a request for a no-action letter as required under this section that contains proprietary or trade secret information as defined in sections 417.450 to 417.467 shall not be considered a public record.

376.791. PORTION OF SECTION 376.777 NOT APPLICABLE TO INDIVIDUAL HEALTH INSURANCE COVERAGE. — 1. The provisions of subdivisions (4) and (5) of subsection 2 of section 376.777 shall not apply to any individual health insurance coverage. The term "individual health insurance coverage" shall have the meaning assigned to it in section 376.450.

2. The director shall promulgate rules and regulations to implement and administer the provisions of this section prior to January 1, 2016. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

Approved July 2, 2015

HB 769 [HCS HB 769]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Allows for direct primary health care services to be provided through a medical retainer agreement between the physician and patient

AN ACT to amend chapter 376, RSMo, by adding thereto one new section relating to direct health care services.

SECTION

A. Enacting clause.
376.1800. Definitions — medical retainer agreements not insurance — agreement requirements — use of health savings accounts for fees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.1800, to read as follows:

376.1800. DEFINITIONS — MEDICAL RETAINER AGREEMENTS NOT INSURANCE — AGREEMENT REQUIREMENTS — USE OF HEALTH SAVINGS ACCOUNTS FOR FEES. — 1. As used in this section, the following terms shall mean:

(1) "Medical retainer agreement", a contract between a physician and an individual patient or such individual patient's legal representative in which the physician agrees to provide certain health care services described in the agreement to the individual patient for an agreed-upon fee and period of time;

(2) "Physician", a physician licensed under chapter 334. Physician includes an individual physician or a group of physicians.

2. A medical retainer agreement is not insurance and is not subject to this chapter. Entering into a medical retainer agreement is not the business of insurance and is not subject to this chapter.

3. A physician or agent of a physician is not required to obtain a certificate of authority or license under this section to market, sell, or offer to sell a medical retainer agreement.

4. To be considered a medical retainer agreement for the purposes of this section, the agreement shall meet all of the following requirements:

- (1) Be in writing;
- (2) Be signed by the physician or agent of the physician and the individual patient or such individual patient's legal representative;
- (3) Allow either party to terminate the agreement on written notice to the other party;
- (4) Describe the specific health care services that are included in the agreement;
- (5) Specify the fee for the agreement;
- (6) Specify the period of time under the agreement; and
- (7) Prominently state in writing that the agreement is not health insurance.

5. (1) For any patient who enters into a medical retainer agreement under this section and who has established a health savings account (HSA) in compliance with 26 U.S.C. Section 223, or who has a flexible spending arrangement (FSA) or health reimbursement arrangement (HRA), fees under the patient's medical retainer agreement may be paid from such health savings account or reimbursed through such flexible spending arrangement or health reimbursement arrangement, subject to any federal or

state laws regarding qualified expenditures from a health savings account, or reimbursement through a flexible spending arrangement or a health reimbursement arrangement.

(2) The employer of any patient described in subdivision (1) of this subsection may:

(a) Make contributions to such patient's health savings account, flexible spending arrangement, or health reimbursement arrangement to cover all or any portion of the agreed-upon fees under the patient's medical retainer agreement, subject to any federal or state restrictions on contributions made by an employer to a health savings account, or reimbursement through a flexible spending arrangement, or health reimbursement arrangement; or

(b) Pay the agreed-upon fees directly to the physician under the medical retainer agreement.

6. Nothing in this section shall be construed as prohibiting, limiting, or otherwise restricting a physician in a collaborative practice arrangement from entering into a medical retainer agreement under this section.

Approved July 2, 2015

HB 778 [HB 778]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the 22nd week of each year as "22q Awareness Week"

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to 22q awareness week.

SECTION

A. Enacting clause.

9.230. Twenty-second week of year, 22q Awareness Week.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.230, to read as follows:

9.230. TWENTY-SECOND WEEK OF YEAR, 22Q AWARENESS WEEK. — The twenty-second week of each year is hereby designated as "22q Awareness Week" in the state of Missouri. The citizens of this state are encouraged to observe the week with appropriate activities and events to increase awareness of individuals with a chromosome 22q11.2 deletion.

Approved July 2, 2015

HB 859 [HB 859]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates April 15 of each year as "Jackie Robinson Day" in Missouri

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of Jackie Robinson day.

SECTION

- A. Enacting clause.
9.042. April 15, Jackie Robinson Day.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.042, to read as follows:

9.042. APRIL 15, JACKIE ROBINSON DAY. — April fifteenth of each year shall be designated as "Jackie Robinson Day" in Missouri. The citizens of this state are encouraged to observe the day in honor of Jackie Robinson, the first African-American to play major league baseball.

Approved July 6, 2015

HB 861 [HB 861]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the first full week in March as "Multiple Sclerosis Awareness Week"

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of multiple sclerosis awareness week in Missouri.

SECTION

- A. Enacting clause.
9.045. First full week of March, Multiple Sclerosis Awareness Week.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.045, to read as follows:

9.045. FIRST FULL WEEK OF MARCH, MULTIPLE SCLEROSIS AWARENESS WEEK. — The first full week of March is hereby designated as "Multiple Sclerosis Awareness Week" in the state of Missouri. The citizens of this state are encouraged to participate in appropriate activities and events to increase awareness of multiple sclerosis.

Approved July 2, 2015

HB 869 [HB 869]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Changes the laws regarding taxation on motor vehicles

AN ACT to repeal section 144.450, RSMo, and to enact in lieu thereof one new section relating to taxation on motor vehicles.

SECTION

A. Enacting clause.

144.450. Exemptions from use tax.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 144.450, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 144.450, to read as follows:

144.450. EXEMPTIONS FROM USE TAX. — In order to avoid double taxation under the provisions of sections 144.010 to 144.510, any person who purchases a motor vehicle, trailer, manufactured home, boat, or outboard motor in any other state and seeks to register or obtain a certificate of title for it in this state shall be credited with the amount of any sales tax or use tax shown to have been previously paid by him on the purchase price of such motor vehicle, trailer, boat, or outboard motor in such other state. The tax imposed by subdivision (9) of subsection 1 of section 144.020 shall not apply:

(1) To motor vehicles, trailers, boats, or outboard motors brought into this state by a person moving any such vehicle, trailer, boat, or outboard motor into Missouri from another state who shall have registered and in good faith regularly operated any such motor vehicle, trailer, boat, or outboard motor in such other state at least ninety days prior to the time it is registered in this state;

(2) To motor vehicles, trailers, boats, or outboard motors acquired by registered dealers for resale;

(3) To motor vehicles, trailers, boats, or outboard motors purchased, owned or used by any religious, charitable or eleemosynary institution for use in the conduct of regular religious, charitable or eleemosynary functions and activities;

(4) To motor vehicles owned and used by religious organizations in transferring pupils to and from schools supported by such organization;

(5) Where the motor vehicle, trailer, boat, or outboard motor has been acquired by the applicant for a certificate of title therefor by gift or under a will or by inheritance, and the tax hereby imposed has been paid by the donor or decedent;

(6) To any motor vehicle, trailer, boat, or outboard motor owned or used by the state of Missouri or any other political subdivision thereof, or by an educational institution supported by public funds; [or]

(7) To farm tractors;

(8) To motor vehicles, trailers, boats, or outboard motors owned and used by not-for-profit civic, social, service, or fraternal organizations in their civic or charitable functions and activities;

(9) To motor vehicles, trailers, boats, or outboard motors owned and used by any private, not-for-profit elementary school, secondary school, or institution of higher education in the conduct of their educational functions and activities;

(10) To motor vehicles, trailers, boats, or outboard motors owned and used by any elementary school, secondary school, or institution of higher education in the conduct of their educational functions and activities that are supported by public funds; or

(11) To any transfer of motor vehicles, trailers, boats, or outboard motors that is the same type of transfer as set forth in section 144.617.

Approved June 30, 2015

HB 874 [HB 874]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates October 16th as "Walt Disney - A Day to Dream' Day" in Missouri

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of public holidays.

SECTION

A. Enacting clause.

9.220. October 16, Walt Disney — 'A Day to Dream' Day.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.220, to read as follows:

9.220. OCTOBER 16, WALT DISNEY — 'A DAY TO DREAM' DAY. — October sixteenth of each year shall be known and designated as "Walt Disney - 'A Day to Dream' Day". The citizens of this state are encouraged to participate in appropriate activities and events to commemorate the life and accomplishments of Walt Disney.

Approved July 6, 2015

HB 947 [SCS HB 947]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Authorizes the conveyance of various state properties

AN ACT to authorize the conveyance of certain state properties.

SECTION

1. Conveyance of Nevada Habilitation Center, Vernon County.
2. Conveyance of property at 2108 East 35th Street, Kansas City.
3. Conveyance of property at 2212 Wabash Avenue, Kansas City.
4. Conveyance of Springfield Veterans Walking Trail, Greene County.
5. Conveyance of B W Sheperd State School in Kansas City.
6. Conveyance of Camp Zoe, Shannon County.
7. Conveyance of Marshall Habitation Center, Saline County.
8. Conveyance of property along State Route Z, Pulaski County, to the state highways and transportation commission.
9. Conveyance of property in Christian County, Route 60.
10. Conveyance of property in Christian County, Route 60.
11. Conveyance of property in St. Charles County, Highway 94 West Clay Road, to state highways and transportation commission.
12. Conveyance of Mark Twain Expressway, St. Louis County, to state highways and transportation commission.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION 1. CONVEYANCE OF NEVADA HABILITATION CENTER, VERNON COUNTY. —
1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest of the state of Missouri in fee simple absolute in property known as the Nevada

Habilitation Center, Vernon County, Missouri. The property to be conveyed is more particularly described as follows:

Tract 2:

A tract of land being located in the Northwest 1/4 of Section 33, Township 36 North, Range 31 West of the 5th P.M., Vernon County, Missouri, being described as follows:

Commencing at the Northwest corner of said Northwest 1/4; thence S02°21'48"W along the West line of said Northwest 1/4, a distance of 1543.07 feet; thence S88°11'56"E a distance of 857.45 feet measured (858.35' deeded); thence N62°58'10"E a distance of 65.33 feet measured (65.44' deeded); thence S88°19'19"E a distance of 56.19 feet measured (55.90' deeded); thence S01°48'16"W a distance of 102.52 feet to the POINT OF BEGINNING; thence S86°55'59"E a distance of 50.03 feet; thence N63°21'53"E a distance of 77.16 feet; thence S88°29'29"E a distance of 188.55 feet to the Westerly Right of Way line of State Highway "W"; thence S02°46'09"W along said Right of Way line, a distance of 112.03 feet to the Northeast Corner of Lot 1 of Block 1 of Ash Place, a subdivision located in Nevada, Vernon County, Missouri; thence N88°08'38"W along the North line of said Lot 1, a distance of 186.66 feet measured (185.80' platted); thence S63°21'43"W along said North line, a distance of 77.07 feet measured (77.17' platted); thence N87°22'38"W along said North line, a distance of 50.06 feet; thence N01°48'16"E a distance of 89.91 feet measured (90.00' platted); thence continuing N01°48'16"E a distance of 21.31 feet returning to the Point of Beginning. Having an Area of 0.78 acres.

Subject to road right of ways and easements, public and private, as may be now located.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 2. CONVEYANCE OF PROPERTY AT 2108 EAST 35TH STREET, KANSAS CITY.

— 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest of the state of Missouri in fee simple absolute in property known as 2108 East 35th Street, Kansas City, Missouri. The property to be conveyed is more particularly described as follows:

Lot 114, South Windsor, a subdivision in Kansas City, Jackson County, Missouri, subject to restrictions, reservations, covenants and easements of record, if any.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 3. CONVEYANCE OF PROPERTY AT 2212 WABASH AVENUE, KANSAS CITY.—

1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey

all interest of the state of Missouri in fee simple absolute in property known as 2212 Wabash Avenue, Kansas City, Missouri. The property to be conveyed is more particularly described as follows:

Lot 6, Block 6, Prospect Summit, a subdivision in Kansas City, (Jackson County), Missouri.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 4. CONVEYANCE OF SPRINGFIELD VETERANS WALKING TRAIL, GREENE COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest of the state of Missouri in fee simple absolute in property known as the Springfield Veterans Walking Trail, Greene County, Missouri. The property to be conveyed is more particularly described as follows:

Part of the northeast quarter of the northwest quarter of section 21, township 28 north, range 21 west in Greene County, Missouri, described as follows: commencing at the southeast corner of the northeast quarter of the northwest quarter of said section 21; thence N02°02'09"E along the east line of said northeast quarter of the northwest quarter, 593.25 feet to an existing iron pin at the northeast corner of a tract of land deeded to the State of Missouri (for Veterans Cemetery) as described in book 2425, page 1529 at the Greene County recorder's office, for the point of beginning; thence along the 1143 elevation contour line and the northerly boundary of said State of Missouri tract, the following six courses: N61°12'09"W, 209.13 feet to an iron pin; N62°22'34"W, 253.18 feet to an iron pin; N64°23'36"W, 195.02 feet to an iron pin; N65°04'20"W, 244.44 feet to an iron pin; N66°44'15"W, 266.90 feet to an iron pin; and N66°07'48"W, 169.46 feet to the easterly right-of-way line of the Frisco Railroad; thence S25°38'24"W along said railroad right-of-way line, 39.87 feet; thence leaving said right-of-way line, S62°14'11"E, 173.33 feet; thence S30°14'00"E, 81.29 feet; thence S66°44'15"E, 198.41 feet; thence S65°04'20"E, 242.39 feet; thence S64°23'36"E, 192.67 feet; thence S62°22'34"E, 250.40 feet; thence S61°12'09"E, 258.54 feet to the east line of said northeast quarter of the northwest quarter; thence N02°02'09"E along said east line, 112.00 feet to the point of beginning. (Bearings are based on grid north, Missouri coordinate system of 1983, Central Zone).

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 5. CONVEYANCE OF B W SHEPERD STATE SCHOOL IN KANSAS CITY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest of the state of Missouri in fee simple absolute in property known as the B W Sheperd State School, Kansas City, Jackson County, Missouri. The property to be conveyed is more particularly described as follows:

Lots 3, 4, 5, 6, 7, 8, 9, 10 and 11, Resurvey of Block 8, PORTER PARK, a subdivision of Kansas City, Jackson County, Missouri, according to the recorded plat thereof.

Subject to easements, restrictions and reservations of record.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 6. CONVEYANCE OF CAMP ZOE, SHANNON COUNTY. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, and convey all interest of the state of Missouri in fee simple absolute in property known as Camp Zoe, Shannon County, Missouri. The property to be conveyed is more particularly described as follows:

Premises located at Camp Zoe, Shannon County, Missouri, shall be further described as follows:

Land for two access roads for silviculture, conservation and research purposes, further described as:

One strip of land being thirty feet (30') wide through part of the Southwest Quarter of Section 5 and through part of the Northwest Quarter of Section 8, all in Township 30 North, Range 4 West, in Shannon County, Missouri and being more particularly described as follows:

Said thirty foot wide access easement lying 15.00 feet on each side of the following described centerline;

Commencing at the Southwest corner of said Section 5, thence along the South line of said Southwest Quarter of said Section 5, South 89 degrees 25 minutes 38 seconds East a distance of 570.71 feet; thence leaving said South line, North 00 degrees 34 minutes 22 seconds East a distance of 150.00 feet; thence South 89 degrees 25 minutes 38 seconds East a distance of 237.40 feet to the Point of Beginning of the centerline of said access easement; thence along said centerline, South 00. degrees 34 minutes 22 seconds West a distance of 53.48 feet; thence South 31 degrees 38 minutes 41 seconds East a distance of 98.29 feet; thence along a curve to right, having a radius of 50.00 feet, an arc distance of 36.00 feet, a chord of South 11 degrees 01 minutes 05 seconds East 35.23 feet; thence South 09 degrees 36 minutes 30 seconds West a distance of 24.55 feet; thence along a curve to the left, having a radius of 100.00 feet, an arc distance of 106.15 feet, a chord of South 20 degrees 48 minutes 10 seconds East 101.24 feet; thence South 51 degrees 12 minutes 49 seconds East a distance of 47.12 feet; thence along a curve to the right, having a radius of 112.00 feet, an arc distance of 105.37 feet, a chord of South 24 degrees 15 minutes 38 seconds East 101.53 feet; thence South 02 degrees 41 minutes 33 seconds West a distance of 51.50 feet to the point of terminus of said centerline of access easement at the centerline of relocated CO RD 19B.

and

One strip of land being thirty feet (30') wide through part of the Northwest Quarter of Section 8, in Township 30 North, Range 4 West, in Shannon County, Missouri and being more particularly described as follows:

Said thirty foot wide access easement lying 15.00 feet on each side of the following described centerline;

Commencing at the Northwest corner of said Section 8, thence along the North line of said Northwest Quarter of said Section 8, South 89 degrees 25 minutes 38 seconds East a distance of 25.00 feet to the Point of Beginning of the centerline of said access easement; thence South 01 degree 31 minutes 55 seconds West a distance of 149.47 feet to the point of terminus of said centerline of access easement at the centerline of relocated CO RD 19B.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 7. CONVEYANCE OF MARSHALL HABITATION CENTER, SALINE COUNTY. —

1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in property known as the Marshall Habilitation Center, Saline County, Missouri, described as follows:

TRACT "A"

Part of the Northeast Quarter and a part of the North Half of the Southeast Quarter of Section 11; and a part of the West Half of the Northwest Quarter, and a part of the North Half of the Southwest Quarter of Section 12; all in Township 50 North, Range 21 West, in the County of Saline, Missouri, and being more particularly described as follows:

From the northwest corner of the Southwest Quarter of said Section 12; thence N88°47'00"E, along the Quarter Section Line, 1303.20 feet to the northeast corner of the northwest Quarter of the Southwest Quarter of said Section 12, and the point of beginning for this description; thence N88°47'00"E, along the Quarter Section Line, 210.19 feet to the northeast corner of a tract of land described in Book 98, at page 563, Saline County Recorder's Office; thence S1°12'10"W, along the East Line of said tract, 1088.74 feet to the North Line of the Missouri Pacific Railroad Co. right-of-way; thence westerly, along the said north right-of-way line, on the following courses and distances: S72°08'00"W, 368.64 feet; thence westerly, on a curve to the right, having a radius of 1382.40 feet, a distance of 434.29 feet; thence N89°52'00"W, 646.40 feet; thence westerly, on a curve to the right, having a radius of 1382.40 feet, a distance of 506.68 feet; thence N68°52'00"W, 425.26 feet; thence westerly, on a curve to the left, having a radius of 1482.40 feet, a distance of 1115.26 feet to the west line of the said tract of land as described in Book 98, at Page 563; thence leaving the said north line of the Missouri Pacific Railroad Co. right-of-way; N2°22'30"E, along the west line of the said tract of land as described in Book 98, at Page 563, Saline County Recorder's Office, 86.01 feet to the southeast corner of a tract of land as described in Book 248, at page 114, Saline County Recorder's Office; thence

N87°22'50"W, along the south line of last said tract of land, 362.97 feet to the southwest corner thereof; thence N2°22'30"E, along the west line of last said tract of land, 325.94 feet to the south line of a tract of land as described in Book 23, at Page 35, Saline County Recorder's Office; thence S87°22'50"E, along the south line of last said tract of land, 6.02 feet to the southeast corner thereof; thence N2°22'30"E, along the east line of last said tract of land, 208.25, feet to the northeast corner thereof; thence N87°22'50"W, along the north line of last said tract of land, 388.39 feet to the east right-of-way line of North Lincoln Avenue; thence northerly along the said east right-of-way line, on the following courses and distances; N2°22'30"E, 463.00 feet; thence N2°15'10"E, 547.54 feet; thence northerly, on a curve to the right, having a radius of 256.48 feet, a distance of 59.14 feet to the west line of a tract of land as described in Book 28, at Page 353, Saline County Recorder's Office; thence leaving the said east right-of-way line; S1°22'10"W, along the west line of last said tract of land, 144.11 feet to the southwest corner thereof; thence S87°22'50"E, along the south line of last said tract of land, 879.08 feet to the southeast corner thereof; thence N1°22'10"E, along the east line of last said tract of land, 206.99 feet to the northeast corner thereof; thence N87°22'50"W, along the north line of last said tract of land, 854.38 feet to the east right-of-way line of North Lincoln Avenue; thence northeasterly, along the said east right-of-way line, on the following courses and distances; northeasterly, on a curve to the right, having a radius of 256.48 feet, a distance of 106.10 feet; thence N54°11'20"E, 1256.36 feet; thence northeasterly, on a curve to the left, having a radius of 439.26 feet, a distance of 159.32 feet to the south line of Missouri State Route 240; thence leaving the east right-of-way line of said North Lincoln Avenue; easterly, along the southerly right-of-way line of said Missouri State Route 240, on the following courses and distances, S56°07'00"E, 10.36 feet; thence N47°10'10"E, 194.36 feet; thence easterly, on a curve to the right, having a radius of 2789.79 feet, a distance of 840.53 feet; thence S65°00'50"E, 636.24 feet; thence S53°39'30" E, 101.57 feet; thence S76°22'10"E, 101.57 feet; thence S65°00'50"E, 1001.90 feet; thence S50°58'40"E, 71.34 feet to the Quarter-Quarter Section Line; thence leaving the south right-of-way line of said Missouri State Route 240, S1°02'10"W, along the Quarter-Quarter Section Line, 756.56 feet to the point of beginning. Containing in all, 212.88 acres.

TRACT "B"

Part of the North Half of the Southeast Quarter of Section 11, Township 50 North, Range 21 West, in the County of Saline, Missouri, and being more particularly described as follows:

From the northeast corner of the North Half of the Southeast Quarter of said Section 11; thence S2°16'50"W, along the Section Line, 1313.71 feet to the southeast corner of the North Half of the Southeast Quarter of said Section 11; thence N87°34'30"W, along the Quarter-Quarter Section Line, 172.06 feet to a point on the south line of the Missouri Pacific Railroad Company right-of-way, and the point of beginning for this description; thence continuing N87°34'30"W, along the Quarter-Quarter Section Line, 1702.55 feet to the southwest corner of a tract of land as described in Book 98, at Page 563, Saline County Recorder's Office; thence N2°22'30"E, along the west line of said tract of land, 126.66 feet to the south line of the said Missouri Pacific Railroad Company right-of-way; thence easterly, along the said south right-of-way line, on the following courses

and distances: easterly, on a curve to the right, having a radius of 1382.40 feet, a distance of 1085.63 feet; thence S68°52'00"E, 425.26 feet; thence easterly, on a curve to the left, having a radius of 1482.40 feet, a distance of 251.85 feet to the point of beginning.
Containing in all, 6.97 acres.

TRACT "C"

Part of the North Half of the Southwest Quarter of Section 12, Township 50 North, Range 21 West, in the County of Saline, Missouri, and being more particularly described as follows:

From the northwest corner of the Southwest Quarter of said Section 12; thence N88°47'00"E, along the Quarter Section Line, 1513.39 feet to the northeast corner of a tract of land as described in Book 98, at Page 563, Saline County Recorder's Office; thence S1°12'10"W, along the east line of said tract of land, 1194.55 feet to the south line of the Missouri Pacific Railroad Company right-of-way, and the point of beginning for this description; thence continuing S1°12'10"W, along the east line of said tract of land, 123.93 feet to the southeast corner thereof; thence S89°00'30"W, along the Quarter-Quarter Section Line, 416.26 feet to the said south line of the Missouri Pacific Railroad Company right-of-way; thence northeasterly, along the said south right-of-way line, on a curve to the left, having a radius of 1482.40 feet, a distance of 104.85 feet; thence N72°08'00"E, along the said south right-of-way line, 334.07 feet to the point of beginning.
Containing in all, 0.58 acres.

TRACT "D"

Part of the Northeast Quarter of Section 11, Township 50 North, Range 21 West, in the County of Saline, Missouri, and being more particularly described as follows:

From the southeast corner of the Northeast Quarter of said Section 11; thence N87°22'50"W, along the Quarter Section Line, 2647.79 feet to the center of said Section 11; thence N1°22'10"E, along the Quarter Section Line, 658.14 feet to the west right-of-way line of North Lincoln Avenue, and the point of beginning for this description; thence continuing N1°22'10"E, along the Quarter Section Line, 879.09 feet to the south right-of-way line of Missouri State Route 240; thence easterly along the south right-of-way line of said Missouri State Route 240, on the following courses and distances, N72°17'20"E, 335.25 feet; thence easterly, on a curve to the right, having a radius of 2774.79 feet, a distance of 216.37 feet; thence N74°50'10"E, 97.53 feet; thence easterly, on a curve to the right, having a radius of 2784.79 feet, a distance of 291.62 feet; thence S88°20'00"E, 97.26 feet; thence easterly, on a curve to the right, having a radius of 2779.79 feet, a distance of 121.29 feet; thence S29°52'50"E, 115.71 feet; thence S56°07'00"E, 10.40 feet to the west right-of-way line of said North Lincoln Avenue; thence leaving the south right-of-way line of said Missouri State Route 240; southwesterly, along the west right-of-way line of said North Lincoln Avenue, on the following courses and distances: southwesterly, on a curve to the right, having a radius of 379.26 feet, a distance of 138.06 feet; thence S54°11'20"W, 1256.36 feet; thence southwesterly, on a curve to the left, having a radius of 316.48 feet, a distance of 174.18 feet to the point of beginning.

Containing in all 14.29 acres.

TRACT "E"

Part of the Northeast Quarter of Section 11, Township 50 North, Range 21 West, in the County of Saline, Missouri, and being more particularly described as follows:

From the southeast corner of the Northeast Quarter of said Section 11; thence N88°47'00"E, along the Quarter Section Line, 1303.20 feet to the northeast corner of the Northwest Quarter of the Southwest Quarter of Section 12; thence N88°47'00"E, along the Quarter Section Line, 210.19 feet to the northeast corner of a tract of land described in Book 98, at Page 563, Saline County Recorder's Office; thence S 1°12'10"W, along the East line of said tract, 1088.74 feet to the North Line of the Missouri Pacific Railroad Co. right-of-way; thence westerly, along the said north right-of-way line, on the following courses and distances: S72°08'00"W, 368.64 feet; thence westerly, on a curve to the right having a radius of 1382.40 feet, a distance of 434.29 feet; thence N89°52'00"W, 646.40 feet; thence westerly, on a curve to the right, having a radius of 1382.40 feet, a distance of 506.68 feet; thence N68°52'00"W, 425.26 feet; thence westerly, on a curve to the left, having a radius of 1482.40 feet, a distance of 1115.26 feet to the west line of the said tract of land as described in Book 98, at Page 563, Saline County Recorder's Office; thence leaving the said north line of the Missouri Pacific Railroad Co. right-of-way; N2°22'30"E, along the west line of said tract of land as described in Book 98, at Page 563, Saline County Recorder's Office, 86.01 feet to the southeast corner of a tract of land as described in Book 248, at Page 114, Saline County Recorder's Office; thence N87°22'50"W, along the south line of last said tract of land, 362.97 feet to the southwest corner thereof; thence N2°22'30"E, along the west line of last said tract of land, 325.94 feet to the south line of a tract of land as described in Book 23, at Page 35, Saline County Recorder's Office; thence S87°22'50"E, along the south line of last said tract of land, 6.02 feet to the southeast corner thereof; thence N2°22'30"E, along the east line of last said tract of land, 208.25 feet to the northeast corner thereof; thence N87°22'50"W, along the north line of last said tract of land, 388.39 feet to the east right-of-way line of North Lincoln Avenue; thence northerly along the said east right-of-way line, on the following courses and distances; N2°22'30"E, 463.00 feet; thence N2°15'10"E, 547.54 feet; thence northerly on a curve to the right having a radius of 256.48 feet, a distance of 59.14 feet to the west line of a tract of land as described in Book 28, at Page 353, Saline County Recorder's Office; thence leaving the said east right-of-way line; S1°22'10"W, along the west line of last said tract of land, 144.11 feet to the southwest corner thereof; thence S87°22'50"E, along the south line of last said tract of land, 229.56 feet to the point of beginning for this description; thence continuing S87°22'50"E, along said South Line, 649.52 feet to the southeast corner thereof; thence N01°22'10"E, along the East Line of said tract, 206.99 feet to the northeast corner thereof; thence N87°22'50"W, along the north line of said tract, 649.52 feet; thence S01°22'10"W, 206.99 feet to the point of beginning.

Containing in all, 3.09 acres

CEMETERY TRACT "A-1"

Part of the Northeast Quarter of the Southwest Quarter and a part of the Northwest Quarter of the Southwest Quarter of Section 12, Township 50 North,

Range 21 West, in the County of Saline, Missouri, and being more particularly described as follows:

From the northwest corner of the Southwest Quarter of said Section 12; thence N88°47'00"E, along the Quarter Section Line, 1303.20 feet to the northeast corner of the northwest Quarter of the Southwest Quarter of said Section 12; thence N88°47'00"E, along the Quarter Section Line, 210.19 feet to the northeast corner of a tract of land described in Book 98, at page 563, Saline County Recorder's Office; thence S1°12'10"W, along the East Line of said tract, 894.31 feet to the POINT OF BEGINNING for this description; thence continuing S1°12'10"W, along the East Line of said tract described in Book 98, page 563, 194.43 feet to the North Line of the Missouri Pacific Railroad Co. right-of-way; thence S72°08'00"W, along the said north right-of-way line, 328.68 feet; thence N6°28'20"E, 325.18 feet; thence S84°19'03"E, 281.64 feet to the POINT OF BEGINNING.

Containing 1.74 acres.

CEMETERY TRACT "A-2"

Part of the East Half of the Northeast Quarter of Section 11, Township 50 North, Range 21 West, in the County of Saline, Missouri, and being more particularly described as follows:

From the southeast corner of the Northeast Quarter of said Section 11; thence N87°22'50"W, along the Quarter Section Line, 1068.09 feet; thence N2°37'10"E, on a direct line, 1442.64 feet to the POINT OF BEGINNING for this description; thence N80°39'52"W, 94.82 feet; thence N9°52'16"E, 255.72 feet; thence S80°20'20"E, 92.02 feet; thence S9°14'38"W, 255.19 feet to the POINT OF BEGINNING.

Containing 0.55 of an acre.

2. The commissioner of administration shall set the terms and conditions for the conveyance as the commissioner deems reasonable. Such terms and conditions may include, but not be limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve as to form the instrument of conveyance.

SECTION 8. CONVEYANCE OF PROPERTY ALONG STATE ROUTE Z, PULASKI COUNTY, TO THE STATE HIGHWAYS AND TRANSPORTATION COMMISSION. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Pulaski County, along State Highway Route Z (formerly Route 17 and Route 66), to the state highways and transportation commission. The property to be conveyed is more particularly described as follows:

Beginning at the southwest corner of the said NE $\frac{1}{4}$ of Sec. 28, thence N1°23'W 1318.8 feet to the northwest corner of the SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Sec. 28, thence N1°24'W 644 feet with the west boundary of the NW $\frac{1}{4}$ of NE $\frac{1}{4}$ of said Sec. 28, thence N 82°57'E 2464.1 feet to an iron pipe marking the southwest corner of the school tract, thence N 89°34'E 212.6 feet along the south line of the school tract to the east line of the NE $\frac{1}{4}$ of Sec. 28, thence S 1°18'E along said east line 191.8 feet to station 1087+37.1 (north lane Route 66), thence continue S 1°18'E 172.8

feet, thence S 83°13'W 800.7 feet to a point opposite and 100 feet from P.T. station 1079+10 (south lane), thence S 73°34'W 1535.8 feet to a point opposite and 150 feet from station 1063+45.6 (south lane) thence S 14°39'W 810.8 feet to a point opposite and 200 feet from station 9+52.7 (theoretical center line of Route 17), thence from a tangent bearing S 23°46'E deflect to the right on a curve whose radius is 2864.9 feet a distance of approximately 623 feet to the south boundary of the NE ¼ of Sec. 28, thence westerly with the said south boundary approximately 344 feet to the place of beginning. Containing 33.84 acres more or less, new right of way and 5.16 acres more or less, in present Routes 17 and 66.

2. The commissioner of administration shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 9. CONVEYANCE OF PROPERTY IN CHRISTIAN COUNTY, ROUTE 60. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Christian County, Route 60, to the state highways and transportation commission. The property to be conveyed is more particularly described as follows:

That part of the N1/2 of NW1/4 of Sec. 2, Twp. 27N, R24W, south of the right of way of the St. Louis-San Francisco Railroad, being in a tract of land 120 feet wide, except as noted, 60 feet of which, is on both sides of, adjacent to, parallel with and measured from the surveyed center line of the survey of the Missouri State Highway Department for said Route 60, which surveyed center line is described as follows:

Tract 1

Beginning at a point approximately 497 feet west and 50 feet south of the southeast corner of the NW¼ of NW¼ of said Sec. 2 at survey station 320+80, thence N55°33'E 848.6 feet to P.C. at station 329+28.6, thence deflect to the left on a curve whose radius is 5729.7 feet a distance of 1421.4 feet to station 343+50, which point is approximately 78 feet north of and 85 feet west of the northeast corner of the said NW¼ of Sec. 2. Containing 5.65 acres, more or less, new right of way, and 0.07 acre, more or less, now in county road.

Tract 2

Also a tract 30 feet wide and 80 feet long adjoining tract 1 on its left or northwesterly side running north from a point opposite station 328+00. Containing 0.06 acre, more or less, for drainage ditch outlet.

Tract 3

Also a tract 50 feet wide and 75 feet long adjoining tract 1 on its right or southeasterly side and extending from a point opposite station 327+85 to a point opposite station 328+60. Containing 0.09 acre, more or less, for drainage ditch outlet.

Tract 4

Also a tract lying northwesterly of tract 1 and southeasterly of the right of way of the said railroad described as beginning opposite station 333+00 and running

northeasterly to the north boundary of said Sec. 2. Containing 0.89 acre, more or less, new right of way, and 0.04 acre, more or less, in county road.

Tract 5

Also a tract 25 feet wide and 85 feet long adjoining tract 1 on its right or southeasterly side and running southeasterly from a point opposite station 337+89. Containing 0.05 acre, more or less, for drainage ditch outlet.

Tract 6

Also a tract adjoining tract 1 on its right or southeasterly side beginning on the southeasterly boundary of said tract 1 opposite station 341+00, thence northeasterly approximately 236 feet towards a point that is 170 feet from and opposite station 343+75 to a point on the east boundary of said NW $\frac{1}{4}$ of Sec. 2 approximately 45 feet south of the northeast corner thereof, thence north with said east boundary 45 feet, thence west approximately 75 feet to tract 1, thence southwesterly with tract 1 approximately 200 feet to the point of beginning. Containing 0.20 acre, more or less, new right of way, and 0.02 acre, more or less, now in county road.

2. The commissioner of administration shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 10. CONVEYANCE OF PROPERTY IN CHRISTIAN COUNTY, ROUTE 60. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in Christian County, Route 60, to the state highways and transportation commission. The property to be conveyed is more particularly described as follows:

That part of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ and the West Half of SE $\frac{1}{4}$, (southeasterly of the St. Louis-San Francisco Railroad), and the NE $\frac{1}{4}$ of SE $\frac{1}{4}$, all in Sec.35, Twp. 28N, R24W, being in a tract of land 120 feet wide, except as noted, 60 feet of which, except as noted, is on both sides of, adjacent to, parallel with and measured from the surveyed centerline of the survey of the Missouri State Highway Department for said Route 60, which surveyed center line is described as follows:

Tract 1

Beginning at a point approximately 92 feet south and 185 feet west of the southeast corner of the said SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of Sec. 35 at survey station 341+15, thence from a tangent bearing N43°41'E deflect to the left on a curve whose radius is 5729.7 feet a distance of 756.9 feet to a P.T. at station 348+71.9, thence N36° 07'E 2728.1 feet to station 376+00, which point is approximately 520 feet east and 40 feet north of the northwest corner of said NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Sec. 35. Containing 9.03 acres, more or less, new right of way, and 0.07 acre, more or less, in county road.

Tract 2

Also all that part of the SE $\frac{1}{4}$ of SW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Sec. 35 that lies northwesterly of tract 1, southeasterly of the railroad right of way, and southwesterly of a line which begins on the northwesterly side of tract 1 opposite

station 346+00 and runs N51°10'W approximately 85 feet to the railroad right of way. Containing 0.71 acre, more or less, new right of way.

Tract 3

Also a tract described as beginning on the right or southeasterly side of tract 1 opposite station 345+50, thence south 170 feet to the north boundary of the county road, thence southwesterly 30 feet to a point on the south boundary of the said SW¼ of SE¼ of Sec. 35, 170 feet from and opposite station 344+00, thence west approximately 150 feet to tract 1, thence northeasterly with tract 1 to the point of beginning. Containing 0.29 acre, more or less, new right of way, and 0.03 acre more or less, in county road.

Tract 4

Also a tract 5 feet wide and approximately 365 feet long lying adjacent to tract 1 on its northwesterly side beginning opposite station 371+50 and extending northeasterly to the north property boundary. Containing 0.04 acre, more or less, new right of way.

Tract 5

Also a tract 10 feet wide and approximately 505 feet long lying adjacent to tract 1 on its southeasterly side beginning opposite station 371+00 and extending northeasterly to the north property boundary. Containing 0.12 acre, more or less, new right of way.

Tract 6

Also a tract 30 feet wide and 100 feet long adjoining tract 1 on its northwesterly side and extending from a point opposite station 368+00 to a point opposite station 369+00. Containing 0.07 acre, more or less, for construction easement.

Tract 7

Also a tract 5 feet wide and 60 feet long adjoining tract 4 on its northwesterly side and extending from a point opposite station 374+50 to a point opposite station 375+10. Containing 0.01 acre, more or less, for construction easement.

2. The commissioner of administration shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 11. CONVEYANCE OF PROPERTY IN ST. CHARLES COUNTY, HIGHWAY 94 WEST CLAY ROAD, TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in St. Charles County, Highway 94 West Clay Road to the state highways and transportation commission. The property to be conveyed is more particularly described as follows:

A strip of land out of Block 6 Survey Number 3280, Common of St. Charles being more particularly described as follows:

Beginning at the point of intersection of the centerline of the present Salt River Public Road with the land line dividing J T Robbins on the west and Max

Langstadt on the east; thence northeasterly along said land line a distance of 37 feet to a point which is 35 distant northeasterly from the center line of the proposed State Highway; thence S 77° 15' E parallel with and 35 feet distant from said centerline of proposed state highway a distance of 20 feet; thence 12° 45' W at right angles a distance of 5 feet a point which is 30 feet distant from center line of proposed state highway at its station number 1392+00; thence 77° 15' E parallel with and 30 feet dist. from said center line of proposed state highway a distance of 500 feet; thence N12° 45' E at right angles a distance of 5 feet; thence S 77° 15' E parallel with and 35 feet from the center line of proposed state highway a distance of 100 feet; thence S 12° 45' W at right angles a distance of 5 feet thence S 77° 15' E parallel with and 30 feet distant from center line of proposed state Highway a distance of 131.1 feet to a point opposite its station number 1399+31.1; thence S 80° 52' E parallel with and 30 feet distant from said center line of proposed state highway a distance of 378.9 feet; thence following a curve to the left having a radius of 492 feet parallel with and 30 feet distant from said center line of proposed State Highway a distance of 425 feet to a point opposite its station number 1407+61.8; thence N 49° 26' E parallel with and 30 feet distant from said center line of proposed state highway a distance of 632 feet to a point opposite its station Number 1414+32 which is the land line dividing Max Langstadt on the south and Lindenwood College grounds on the north; thence easterly along said line approximately 35 feet to the center line for the proposed state highway, thence southwesterly along said center line a distance of 632 feet; thence following a curve to the right along said center line a distance of 461 feet; thence in a northwesterly direction along said center line of proposed state highway a distance of 1360 feet to place of beginning.

2. The commissioner of administration shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

SECTION 12. CONVEYANCE OF MARK TWAIN EXPRESSWAY, ST. LOUIS COUNTY, TO STATE HIGHWAYS AND TRANSPORTATION COMMISSION. — 1. The governor is hereby authorized and empowered to sell, transfer, grant, convey, remise, release and forever quitclaim all interest of the state of Missouri in real property located in St. Louis County, Route 40 (now known as Mark Twain Expressway), to the state highways and transportation commission. The property to be conveyed is more particularly described as follows:

The following tracts or parcels of land in Lot 4, and part of Lot 5 of the Lewellyn Brown Estate Partition in U.S. Survey 656, Township 46 North, Range 6 East, for the Mark Twain Expressway (Route 40), the centerline of which is described as follows:

Beginning at a point on Line "A" at Station 439+40.19 on the centerline of said Mark Twain Expressway (Route 40) at its intersection with the western line of Lot 4 of said Lewellyn Brown Estate Partition, which point bears south 6 degrees 30 minutes west a distance of 1415 feet from the northwest corner of said Lot 4; thence eastwardly along said centerline north 79 degrees 32 minutes 20 seconds east a distance of 374.57 feet to Equation Station 443+14.76 backward equals Station 442+49.39 forward; thence continuing along said centerline north 79

degrees 32 minutes 20 seconds east a distance of 71.38 feet to a point on said centerline on a spiral curve to the right having a spiral angle of 3 degrees, 30 minutes, and a length of 200 feet to a point on said centerline at Station 445+20.77; thence continuing eastwardly along said centerline on a circular curve to the right having a radius of 1637.28 feet a distance of 425.78 feet to a point on said centerline at Station 449+46.55 said point being the intersection of the centerline of Mark Twain Expressway (Route 40) and of State Highway S.T.T.; thence continuing eastwardly on said centerline of said Mark Twain Expressway (Route 40), and on said circular curve thereof a distance of 140.45 feet to a point on said centerline at Station 450+87, said point being also the intersection of the above described centerline and the centerline of Brown Road.

The centerline of State Highway S.T.T., hereinafter referred to as the centerline of State Highway S.T.T., is described as, beginning at a point at Station 449+46.55 on the centerline of Mark Twain Expressway (Route 40) as described above, which point is the intersection of the centerline of said Mark Twain Expressway (Route 40), and the centerline of State Highway S.T.T. at Station 163+52.54; thence northwardly on a circular curve to the left having a radius of 1432.69 feet, and tangent to a line bearing north 18 degrees 14 minutes, 32 seconds west along the centerline of State Highway S.T.T., a distance of 506.83 feet to a point at Station 158+45.71; thence continuing northwardly along the centerline of State Highway S.T.T. on a spiral curve to the left having a length of 150 feet, and a spiral angle of 3 degrees 00 minutes a distance of 150 feet to a point at Station 156+95.71.

Also from the point of beginning on the centerline of State Highway S.T.T., at Station 163+52.54 as described in paragraph first above; thence southwardly on a circular curve to the right having a radius of 1432.69 feet and tangent to a line bearing south 18 degrees 14 minutes 32 seconds east along the centerline of State Highway S.T.T., a distance of 520.67 feet to a point on said centerline at Station 168+73.21; thence continuing southwardly along the centerline of State Highway S.T.T., on a spiral curve to the right having a length of 150 feet and a spiral angle of 3 degrees 00 minutes a distance of 150 feet to a point at Station 170+23.21 on said centerline; thence continuing southwardly along said centerline of State Highway S.T.T., south 5 degrees 35 minutes .04 seconds west a distance of 868.98 feet to Station 178+92.19, which point is the intersection of said centerline with the northern line of Natural Bridge Road.

Tract 1

All of the grantors land included between a line parallel to and 150 feet northwardly from the above described centerline of the Mark Twain Expressway (Route 40) and line parallel to and 150 feet southwardly from said centerline. Also additional parcels of land described as follows:

Tract 2

Beginning a point on the northern line of parcel heretofore described in Tract #1, said point being 150 feet northwardly from and perpendicular to the centerline of said Mark Twain Expressway (Route 40) at Station 443+14.76; thence northwestwardly in a straight line to a point on the eastern line of Airport Road (80 feet wide), said point being 320 feet northwardly from the intersection of said centerline of Mark Twain Expressway (Line "A") with the eastern line of said Airport Road; thence westwardly at right angles to the centerline of Airport Road a distance of 40 feet to a point on its centerline, said centerline being also

the western line of Lot 4 of the Lewellyn Brown Estate Partition; thence southwardly along said western line of Lot 4 a distance of 175.38 feet to a point on said western line of Lot 4 where it intersects the northern line of above described Tract #1; thence eastwardly along said northern line of said Tract #1 to the point of beginning.

Tract 3

Beginning at a point on the northern line of the parcel of land described above in Tract #1, said point being 150 feet northwardly from, and perpendicular to the previously described centerline of the Mark Twain Expressway (Route 40) at Station 444+50; thence continuing northwardly and perpendicular to said centerline at Station 444+50 a distance of 150 feet to a point; thence northeastwardly in a straight line to a point on the centerline of State Highway S.T.T. at Station 157+50 as heretofore described; thence northwestwardly along the centerline of said State Highway S.T.T. a distance of 54.29 feet to Station 156+95.71 on said centerline; thence eastwardly perpendicular to said centerline at Station 156+95.71 a distance of 40 feet to a point on the northeasterly right of way line of Airport Road (Southeast); thence south 41 degrees 30 minutes 56 seconds east along said northeasterly right of way line of Airport Road (Southeast) a distance of 304.29 feet to a point; thence south 86 degrees 30 minutes 56 seconds east to a point in grantor's easterly property line, said point being on the centerline of Brown Road (40 feet wide), and being all of grantor's land lying between the above described line, the centerline of Brown Road and the northern line of the parcel of land above described in Tract #1.

Tract 4

Beginning at a point on the southern line of the parcel of land described above in Tract #1, said point being 150 feet southwardly from and perpendicular to the previously described centerline of said Mark Twain Expressway (Route 40) at Station 445+00; thence southwardly in a straight line a distance of 277.73 feet to a point, said point being 425.06 feet southwardly from and perpendicular to the centerline of said Mark Twain Expressway at Station 445+48; thence southeastwardly in a straight line a distance of 383.41 to a point, said point being 50 feet westwardly from and perpendicular to the previously described centerline of Route S.T.T. at Station 168+70.41; thence eastwardly to the centerline of Route S.T.T. at Station 168+70.41; thence continuing eastwardly in a straight line perpendicular to the centerline of Route S.T.T. to a point on the centerline of Brown Road being also grantor's easterly property line and being all of the grantors land lying between the above described line, the centerline of Brown Road and the southern line of the parcel of land described above in Tract #1.

Tract 5

Also a parcel of land bounded as follows: On the north by the southern line of parcel last above described in Tract #4 on the east by grantor's eastern property line; being the centerline of Brown Road (40 feet wide), on the west by a line parallel to and 50 feet westwardly from the centerline of State Highway S.T.T. as heretofore described, on the south by the northern line of Natural Bridge Road.

Tract 6

A triangular parcel of land in the southwestern corner of Lot 4 of the Lewellyn Brown Estate Partition described as beginning at the intersection of the western

line of said Lot 4 with the northern line of Natural Bridge Road; thence eastwardly along the northern line of Natural Bridge Road a distance of 254 feet to a point; thence northeastwardly to a point on the western line of said Lot 4, said point being 50 feet northwardly along said western line of Lot 4 from the point of beginning; thence 50 feet southwardly along said western line of said Lot 4 to the point of beginning.

All of the foregoing tracts contain approximately 16.15 acres, exclusive of that portion heretofore dedicated as public roads.

2. The commissioner of administration shall set the terms and conditions for the conveyance, including the consideration, except that such consideration shall not exceed one dollar. Such terms and conditions may include, but are not limited to, the number of appraisals required, the time, place, and terms of the conveyance.

3. The attorney general shall approve the form of the instrument of conveyance.

Approved July 10, 2015

HB 1052 [HB 1052]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions relating to land surveyors

AN ACT to repeal section 327.272, RSMo, and to enact in lieu thereof one new section relating to land surveyors.

SECTION

A. Enacting clause.

327.272. Practice as professional land surveyor defined.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Section 327.272, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 327.272, to read as follows:

327.272. PRACTICE AS PROFESSIONAL LAND SURVEYOR DEFINED. — 1. A professional land surveyor shall include any person who practices in Missouri as a professional land surveyor who uses the title of "surveyor" alone or in combination with any other word or words including, but not limited to "registered", "professional" or "land" indicating or implying that the person is or holds himself or herself out to be a professional land surveyor who by word or words, letters, figures, degrees, titles or other descriptions indicates or implies that the person is a professional land surveyor or is willing or able to practice professional land surveying or who renders or offers to render, or holds himself or herself out as willing or able to render, or perform any service or work, the adequate performance of which involves the special knowledge and application of the principles of land surveying, mathematics, the related physical and applied sciences, and the relevant requirements of law, all of which are acquired by education, training, experience and examination, that affect real property rights on, under or above the land and which service or work involves:

(1) The determination, location, relocation, establishment, reestablishment, layout, or retracing of land boundaries and positions of the United States Public Land Survey System;

- (2) The monumentation of land boundaries, land boundary corners and corners of the United States Public Land Survey System;
- (3) The subdivision of land into smaller tracts and preparation of property descriptions;
- (4) The survey and location of rights-of-way and easements;
- (5) Creating, preparing, or modifying electronic or computerized data relative to the performance of the activities in subdivisions (1) to [(3)] (4) of this subsection;
- (6) Consultation, investigation, design surveys, evaluation, planning, design and execution of surveys;
- (7) The preparation of any drawings showing the shape, location, dimensions or area of tracts of land;
- (8) Monumentation of geodetic control and the determination of their horizontal and vertical positions;
- (9) Establishment of state plane coordinates;
- (10) Topographic surveys and the determination of the horizontal and vertical location of any physical features on, under or above the land;
- (11) The preparation of plats, maps or other drawings showing elevations and the locations of improvements and the measurement and preparation of drawings showing existing improvements after construction;
- (12) Layout of proposed improvements;
- (13) The determination of azimuths by astronomic observations.

2. None of the specific duties listed in subdivisions [(5)] (4) to (13) of subsection 1 of this section are exclusive to professional land surveyors unless they affect real property rights. For the purposes of this section, the term "real property rights" means a recordable interest in real estate as it affects the location of land boundary lines. **The validity of any document prepared between August 27, 2014 and the effective date of this act by a provider of utility or communications services purporting to affect real property rights shall remain valid and enforceable notwithstanding that any legal description contained therein was not prepared by a professional land surveyor.**

3. Professional land surveyors shall be in responsible charge of all drawings, maps, surveys, and other work product that can affect the health, safety, and welfare of the public within their scope of practice.

4. Nothing in this section shall be construed to preclude the practice of architecture or professional engineering or professional landscape architecture as provided in sections 327.091, 327.181, and 327.600.

Approved June 3, 2015

HB 1070 [SCS HB 1070]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Establishes the Office of Military Advocate to advocate for the military in Missouri

AN ACT to amend chapter 41, RSMo, by adding thereto one new section relating to the office of military advocate.

SECTION

- A. Enacting clause.
 - 41.1012. Office of military advocate established, purpose — advocate appointment — department to provide administrative support.
-

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 41, RSMo, is amended by adding thereto one new section, to be known as section 41.1012, to read as follows:

41.1012. OFFICE OF MILITARY ADVOCATE ESTABLISHED, PURPOSE — ADVOCATE APPOINTMENT — DEPARTMENT TO PROVIDE ADMINISTRATIVE SUPPORT. — 1. There is hereby established in the Missouri department of economic development the "Office of Military Advocate", for the purpose of advocating for the military services and military bases in Missouri, creating a long-term plan on military sustainability, and helping to fulfill the statutory mission of the Missouri military preparedness and enhancement commission. The military advocate shall report directly to the director of the department of economic development and will provide support and coordination to the Missouri military preparedness and enhancement commission.

2. The office shall be administered by the military advocate who shall be appointed by the governor with the advice and consent of the senate. The military advocate shall hold office for a term of six years and shall continue to hold the office until a successor has been duly appointed. The department of economic development shall provide administrative support and staff as deemed necessary to assist the military advocate and to fulfill the statutory mission of the Missouri military preparedness and enhancement commission.

Approved June 25, 2015

HB 1116 [HB 1116]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates May 7th as "ROHHAD Awareness Day" in Missouri

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to the designation of ROHHAD awareness day.

SECTION

A. Enacting clause.

9.151. May 7, ROHHAD Awareness Day.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.151, to read as follows:

9.151. MAY 7, ROHHAD AWARENESS DAY. — May seventh of every year shall be designated as "ROHHAD Awareness Day" in Missouri. Rapid-onset obesity with hypothalamic dysfunction, hypoventilation and autonomic dysregulation (ROHHAD) presenting in childhood is a rare syndrome characterized by rapid-onset obesity in the first ten years of life, impairment of the autonomic nervous system, and later onset of reduced lung function. The cause of ROHHAD is unknown and currently there is no cure. Early diagnosis and proper management may help to avoid catastrophic consequences. It is recommended to the people of the state that this day be appropriately observed by participating in awareness and educational activities on the symptoms and impact of

ROHHAD and to support programs which advance treatment, assist in the discovery of a cure, enhance the quality of life of children with ROHHAD, and ease the financial burden of families of children suffering from ROHHAD.

Approved July 2, 2015

HB 1119 [HB 1119]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Designates the second Monday in April as "Missouri Lineworker Appreciation Day"

AN ACT to amend chapter 9, RSMo, by adding thereto one new section relating to lineworker appreciation day.

SECTION

A. Enacting clause.

9.185. Second Monday of April, Missouri Lineworker Appreciation Day.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Chapter 9, RSMo, is amended by adding thereto one new section, to be known as section 9.185, to read as follows:

9.185. SECOND MONDAY OF APRIL, MISSOURI LINEWORKER APPRECIATION DAY. — **The second Monday in April of each year shall be set apart and designated as "Missouri Lineworker Appreciation Day". It is recommended to the people of the state that the day be appropriately observed through activities that will bring about an increased awareness of the profession and contributions of lineworkers.**

Approved July 6, 2015

HB 1149 [SCS HB 1149]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

Modifies provisions related to the Division of Youth Services

AN ACT to repeal sections 219.011, 219.021, and 219.091, RSMo, and to enact in lieu thereof four new sections relating to the division of youth services.

SECTION

A. Enacting clause.

219.011. Definitions.

219.021. Child may be committed to division, when — notice to court of release to aftercare supervision, contents, formal objections may be made, when — division to operate and maintain facilities and programs — day release authorized — payment of judgments.

219.091. Community work program — design and approval of work projects — custody, contract of offenders — eligibility — staff — rules, procedure — vocational training.

219.095. DYS trust fund created, purpose — DYS child benefits fund created, use of moneys.

Be it enacted by the General Assembly of the state of Missouri, as follows:

SECTION A. ENACTING CLAUSE. — Sections 219.011, 219.021, and 219.091, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 219.011, 219.021, 219.091, and 219.095, to read as follows:

219.011. DEFINITIONS. — 1. As used in [sections 219.011 to 219.086] **this chapter**, unless the context clearly indicates otherwise, the following terms mean:

- (1) "Aftercare supervision", treatment and control of children in the community under the jurisdiction of the division;
- (2) "Board", the state advisory board of youth services;
- (3) "Child", a person under eighteen years of age;
- (4) "Commit", to transfer legal and physical custody;
- (5) "Community based treatment", a treatment program which is locally or regionally based;
- (6) "Department", the department of social services;
- (7) "Director", the director of the division of youth services;
- (8) "Division", the division of youth services (**DYS**);
- (9) "**Youth**", **a person under twenty-one years of age committed to the custody of the division of youth services.**

2. When consistent with the intent of [sections 219.011 to 219.086] **this chapter**, the singular includes the plural, the plural the singular and the masculine the feminine.

219.021. CHILD MAY BE COMMITTED TO DIVISION, WHEN — NOTICE TO COURT OF RELEASE TO AFTERCARE SUPERVISION, CONTENTS, FORMAL OBJECTIONS MAY BE MADE, WHEN — DIVISION TO OPERATE AND MAINTAIN FACILITIES AND PROGRAMS — DAY RELEASE AUTHORIZED — PAYMENT OF JUDGMENTS. — 1. Except as provided in subsections 2 and 3 of this section, any child may be committed to the custody of the division when the juvenile court determines a suitable community-based treatment service does not exist, or has proven ineffective; and when the child is adjudicated pursuant to the provisions of subdivision (3) of subsection 1 of section 211.031 or when the child is adjudicated pursuant to subdivision (2) of subsection 1 of section 211.031 and is currently under court supervision for adjudication under subdivision (2) or (3) of subsection 1 of section 211.031. The division shall not keep any [child] **youth** beyond his eighteenth birth date, except upon petition and a showing of just cause in which case the division may maintain custody until the [child's] **youth's** twenty-first birth date. Notwithstanding any other provision of law to the contrary, the committing court shall review the treatment plan to be provided by the division. The division shall notify the court of original jurisdiction from which the child was committed at least three weeks prior to the child's release to aftercare supervision. The notification shall include a summary of the treatment plan and progress of the child that has resulted in the planned release. The court may formally object to the director of the division in writing, stating its reasons in opposition to the release. The director shall review the court's objection in consideration of its final approval for release. The court's written objection shall be made within a one-week period after it receives notification of the division's planned release; otherwise the division may assume court agreement with the release. The division director's written response to the court shall occur within five working days of **service** of the court's objection and preferably prior to the release of the child. The division shall not place a child directly into a precare setting immediately upon commitment from the court until it advises the court of such placement.

2. No child who has been diagnosed as having a mental disease or a communicable or contagious disease shall be committed to the division; except the division may, by regulation, when [facilities] **services** for the proper care and treatment of persons having such diseases are available at any of the facilities under its control, authorize the commitment of children having such diseases to it for treatment [and training] in such institution. Notice of any such regulation shall be promptly mailed to the judges and juvenile officers of all courts having jurisdiction of cases involving children.

3. When a child has been committed to the division, the division shall forthwith examine the individual and investigate all pertinent circumstances of his background for the purpose of facilitating the placement **and treatment** of the child in the most appropriate program or residential facility to assure the public safety and the rehabilitation of the child; except that, no child committed under the provisions of subdivision (2) of subsection 1 of section 211.031 may be placed in the [regional] **residential** facilities [at the W. E. Sears Youth Center at Poplar Bluff or the Hogan Street Regional Youth Center at St. Louis] **designated by the division as a maximum security facility**, unless the juvenile is subsequently adjudicated under subdivision (3) of subsection 1 of section 211.031.

4. The division may transfer any child under its jurisdiction to any other institution for children if, after careful study of the child's needs, it is the judgment of the division that the transfer should be effected. If the division determines that the child requires treatment by another state agency, it may transfer the physical custody of the child to that agency, and that agency shall accept the child if the services are available by that agency.

5. The division shall make periodic reexaminations of all children committed to its custody for the purpose of determining whether existing dispositions should be modified or continued. Reexamination shall include a study of all current circumstances of such child's personal and family situation and an evaluation of the progress made by such child since the previous study. Reexamination shall be conducted as frequently as the division deems necessary, but in any event, with respect to each such child, at intervals not to exceed six months. Reports of the results of such examinations shall be sent to the child's committing court and to his parents or guardian.

6. Failure of the division to examine a child committed to it or to reexamine him within six months of a previous examination shall not of itself entitle the child to be discharged from the custody of the division but shall entitle the child, his parent, guardian, or agency to which the child may be placed by the division to petition for review as provided in section 219.051.

7. The division is hereby authorized to establish, build, repair, maintain, and operate, from funds appropriated or approved by the legislature for these purposes, facilities and programs necessary to implement the provisions of [sections 219.011 to 219.086] **this chapter**. Such facilities or programs may include, but not be limited to, the establishment and operation of training schools, maximum security facilities, [park camps, regional] **moderate care** facilities, group homes, **day treatment programs**, family foster homes, aftercare, counseling services, educational services, and such other services as may be required to meet the needs of children committed to it. The division may terminate any facility or program no longer needed to meet the needs of children.

8. The division may institute day release programs for children committed to it. The division may arrange with local schools, public or private agencies, or persons approved by the division for the release of children committed to the division on a daily basis to the custody of such schools, agencies, or persons for participation in programs.

9. [The division may establish and offer on-the-job vocational training to develop work habits and equip children committed to it with marketable skills. Such training shall not exceed eight hours per day. The division may provide for the payment of reasonable wages or allowances for work or tasks performed by a child committed to the division. For any work performed by a child committed to the division in any state park or park work camp, the state park board is hereby authorized, out of appropriations made to it, to pay wages not in excess of fifteen dollars per month to each child. All funds paid to the child in accordance with this section shall be deposited with the director and not less than one-half of this amount shall be paid monthly to the child. The balance of such funds shall be held in trust by the director for payment to the child at the time of his release from a facility.

10.] The division shall make all reasonable efforts to ensure that any outstanding judgment entered in accordance with section 211.185 or any outstanding assessments ordered in accordance with section 211.181 be paid while a child is in the care, custody or control of the division.

219.091. COMMUNITY WORK PROGRAM — DESIGN AND APPROVAL OF WORK PROJECTS — CUSTODY, CONTRACT OF OFFENDERS — ELIGIBILITY — STAFF — RULES, PROCEDURE — VOCATIONAL TRAINING. — 1. As used in this section, the term "department" means:

- (1) The office of administration;
- (2) The department of agriculture;
- (3) The department of conservation;
- (4) The department of economic development;
- (5) The department of elementary and secondary education;
- (6) The department of health and senior services;
- (7) The department of higher education;
- (8) The department of transportation;
- (9) The department of insurance, financial institutions and professional registration;
- (10) The department of labor and industrial relations;
- (11) The department of mental health;
- (12) The department of natural resources;
- (13) The department of public safety;
- (14) The department of revenue; and
- (15) The department of social services.

2. The division of youth services [shall] **may** develop and establish a community work program whereby [offenders from age fourteen to eighteen] **youth** committed to the custody of the division may be employed in projects developed and established by any department.

3. The director or chief administrative officer of any department may request that the director of the division of youth services choose suitable [offenders] **youth** for employment in work projects developed by the division. Such projects shall be designed and approved by the director or chief administrative officer of any department and approved by the director of the division of youth services.

4. The division of youth services shall retain custody, supervision and control of any [offender] **youth** employed in a work project developed pursuant to this section. Any work [crew] **group** employed in a work project developed pursuant to this section shall consist of not more than [eleven offenders] **thirteen youth**.

5. No offender shall be employed in a work project developed pursuant to this section if the offender has been convicted of a violent crime or whose conduct while under the control of the division of youth services suggests a propensity toward violence. As used in this subsection, the term "violent crime" means any crime which, in the determination of the director of the division of youth services, involves violence or the threat of violence.

6. The department proposing the work project shall supply all plans, tools and equipment necessary for the completion of work projects developed pursuant to this section.

7. The department proposing the work project shall supply [crew leaders] **staff** to direct work [crews] **groups** and supervise the completion of work projects. Such [crew leaders] **staff** shall be employees of the department proposing the work project and shall receive from such department and the division of youth services [at least twenty hours of] **appropriate** training per year, which shall be designed to instruct the [crew leaders] **staff** in the skills necessary to perform their duties.

8. The department proposing the work project and the division of youth services may promulgate rules to effectuate the purposes of this section pursuant to chapter 536 and section 217.040.

9. **For any work performed by a youth committed to the division in any state park, the state park board is hereby authorized, out of appropriations made to it, to pay wages.**

10. **The division may establish and offer on-the-job vocational training to develop work habits and equip youth committed to it with marketable skills. The division may provide for the payment of reasonable wages for work or tasks performed by a youth committed to the division. All payments made to or on behalf of the youth under this**

subsection shall be property of the youth; however, the division may place such restrictions on the youth's access to the funds as the division determines appropriate in the best interests of the youth and to assure security in the division's facilities. All funds paid to or on behalf of the youth in accordance with this subsection shall be deposited in the DYS trust fund established in section 219.095.

219.095. DYS TRUST FUND CREATED, PURPOSE — DYS CHILD BENEFITS FUND CREATED, USE OF MONEYS. — 1. There is hereby created a special class of trust funds to be known as the "DYS Trust Fund" for depositing wages earned by a youth or for other funds provided for the use or benefit of the youth. These funds will be established for each facility where youth are located in the custody of the DYS throughout the state. The division shall deposit money in a DYS trust fund with a financial institution. Any earnings attributable to the money in the account of a youth shall be credited to that youth's DYS trust fund. The division will establish regulations regarding the creation and administration of accounts. Moneys in these special trust funds shall not be deemed to be state funds. Moneys deposited in these funds shall be used only for the purposes specified by federal or state law, or regulation of the division. Notwithstanding the provisions of section 33.080 to the contrary, moneys in these funds shall not be transferred to general revenue at the end of each biennium. Any funds not expended by or on behalf of the youth before the youth's release from DYS residential care shall be paid to the youth upon release from DYS residential care.

2. The division shall establish by regulation a program for youth to access funds, as deemed appropriate by the division, in the DYS trust fund for reasonable purposes while the youth is in DYS residential care. The program shall include training for youth on wise money management, maintaining personal financial accounts, and saving money for use after discharge from DYS residential care.

3. There is hereby created a special trust fund to be known as the "DYS Child Benefits Fund" within the state treasury for depositing of payments from the social security administration to youth in DYS custody. Moneys in this special trust fund shall not be deemed to be state funds. Moneys deposited in this fund shall be used only for the purposes specified by federal or state law, or regulation of the division. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180, RSMo. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. Notwithstanding the provisions of section 33.080 to the contrary, moneys in the fund shall not be transferred to general revenue at the end of each biennium. Any funds not expended by or on behalf of the youth before release from DYS residential care shall be distributed as required by federal law.

4. The division may accept an appointment to serve as representative payee or fiduciary, or in a similar capacity for payments to a youth from the social security administration or under any public or private benefit arrangement. Money so received shall be governed by this section unless otherwise provided by law.

5. Any money received by the division under this section on behalf of a youth shall be deposited in either a DYS trust fund or the DYS child benefits fund and accounted for in the name of the youth or as representative payee of the youth. The division shall by rule adopted under chapter 536 establish procedures for the use and accounting of the money and the protection of the money against theft, loss, or misappropriation. The rules promulgated by the division shall comply with all federal requirements to be a representative payee of the youth.

6. The division may accept funds which a parent, guardian or other person wishes to provide for the use or benefit of the youth. The funds shall be deposited in a DYS trust

fund in the name of the youth at the DYS location where the youth resides. The use of such funds shall be governed by this section.

7. Each youth shall be furnished annually with a statement listing every transaction involving funds which have been deposited with the division on the youth's behalf, to include all receipts and disbursements.

8. The division shall use all proper diligence to promptly disburse any balance of money accumulated in the youth's account in the manner required by law when the youth is released from DYS residential care or upon death of the youth. When the youth is deceased the balance shall be disbursed according to the procedures established by law for descent and distribution or, in the case of moneys received from the social security administration as representative payee, disbursed as required by federal law. If, after the division has diligently used such methods and means as considered reasonable to refund such funds, there shall remain any money, the owner of which is unknown to the division, or if known, cannot be located by the division, in each and every such instance such money shall be reported pursuant to sections 447.500 to 447.595.

9. Nothing in this section shall be deemed to apply to funds regularly due the state of Missouri for the support and maintenance of youth in the care and custody of the division or collected by the state of Missouri as reimbursement for state funds expended on behalf of the youth.

Approved July 8, 2015
